

REDACTED

CASE CONCLUSION DATA SHEET

(To be Submitted to OEA When:

- (1) Judicial Consent Decrees/Orders are Entered by Court
- (2) Administrative Penalty Settlements are Filed, Along with an Administrative Action Data Sheet
- (3) Administrative Non-Penalty Orders are Issued, Along with an Administrative Action Data Sheet)

Note: Form will be returned if this section is incomplete:

Name of Person Completing Form: Bethany Russell Date: 3/29/05
Signature of Program Office Supervisor or Designee: [Signature] Date: 3/31/05

A. Case and Facility Background

1. Court Docket/Regional Hearing Clerk Docket No. RCRA-04-2005-4250
2. Case Name In the Matter of: VS. Agri-Chemicals Corp.; Fort Meade Facility
3. Settlement Action Type:
 - ☐ (a) Consent Decree or Court Order Resolving a Civil Judicial Action
 - ☐ (b) Administrative Penalty Order (with/without Injunctive Relief)
 - ☐ (c) Superfund Administrative Cost Recovery Agreement
 - ☐ (d) Federal Facility Compliance Agreement (NOT including RCRA Matters)
 - ☐ (e) Field Citations
 - ☒ (f) Administrative Compliance Orders
 - ☐ (g) Notice of Determination (Self-Disclosure Cases)
- 4(a) EPA Lead Attorney K. Mark Papp Phone No. 404-562-9532
- 4(b) EPA Program Contact Bethany Russell Phone No. 404-562-8542
5. Was An Environmental Management System Requested? ☐ Yes ☒ No
6. Action Dates (Complete EITHER Administrative or Judicial):
 - Administrative:
Issued/Filed 3/30/05 Final Order 3/30/05
 - Judicial:
Settlement Lodged _____ Settlement Entered _____
- Estimated Termination Date: _____
8. Statute(s) and Section(s) Violated (NOT Authorizing Section Nor CFR):
42 USC. § 6934 _____
- Authorizing Section for Administrative Actions: _____
9. Facility Name VS. Agri-Chemicals Corp. State FL
- How Many Facilities Are Associated With This Action? 1
- Are Any of These Facilities Located Outside Region IV? ☐ Yes ☒ No

B. Penalty Information (If there is no penalty, enter 0 and proceed to Page 6.) 0

11. For Multi-Media Actions, Federal Amounts by Statute:

Statute	Amount
_____	\$ _____
_____	\$ _____
_____	\$ _____

12(a). Total Assessed Penalty \$ _____

12(b). (If Shared) Federal Share \$ _____

13. (If Shared) State or Local Share \$ _____

C. Cost Recovery

14. Amount of Cost Recovery Awarded:

\$ _____ EPA Share

\$ _____ State and/or Local Government Share

\$ _____ Other

Was this an overfile action? ____ Yes ☒ No

(Overfiling occurs when (1) a state/local delegated or approved program has taken no action or an inadequate action to address a violation at a facility; AND (2) EPA takes an enforcement action against the same facility for the same violation; AND (3) the state has not joined with EPA in the EPA action nor asked EPA to bring the action.)

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Information Redacted pursuant to
5 U.S.C. Section 552 (b)(5), Exemption 5
Privileged Inter/Intra Agency Document

Specific Privilege: Predecisional

Process Privilege

ALTERNATIVE DISPUTE RESOLUTION

15. Was Alternative Dispute Resolution (ADR) Used in This Case?

Yes

No (Skip to Next Page.)

of Parties in Your Case? _____

Of Parties Taking Part in Mediation? _____

Which ADR Process or Processes Were Used? (Can Check More Than One)

- ☐ Facilitation
☐ Facilitated Negotiation
☐ Mediation for One Part of Case
☐ Mediation for Entire Case
☐ For Cost/Allocation/Penalties
☐ For Injunctive Relief
☐ Other

Who was Your Mediator? _____

How Did You Obtain Your Mediator? _____

Was This Mediator Effective?

☐ Yes. How So? _____

☐ No. Why Not? _____

Was ADR Useful in Fostering Clearer and More Effective Communication Between
The Parties? ☐ Yes ☐ No

Did ADR Help Resolve the Conflict it was Selected For? ☐ Yes ☐ No

If Not, Why Not? _____

Did ADR Help Resolve Conflicts That Were Apart From the Conflict it was Selected For?

☐ Yes. Why? _____

☐ No

Were you Satisfied with the ADR Process You Went Through in Your Case?

☐ Yes Why? _____

☐ No Why Not? _____

Would You Consider Using ADR Again? ☐ Yes ☐ No

If Yes, What Would You Anticipate Using it For? _____

If No, Why Not? _____

How Could the Usefulness of ADR Have Been Improved in Your Case? _____

How Could EPA's Use of ADR be Improved in General? _____

How Could EPA Better Assist You in Obtaining and Effectively Using ADR Services? _____

Exemption 7
(A) Interference with Enforcement Proceedings
(B) Right to Fair Trial
(C) Unwanted Invasion of Personal Privacy

C. Supplemental Environmental Project (SEP) Information

15. Is Environmental Justice Addressed by SEP? ☐ Yes ☒ No

16. SEP Description _____

17. Categories of SEPs (Check all appropriate categories. If no, proceed to #25)

☐ (a) Public Health

☐ (b) Pollution Prevention (Complete Question #19)

☐ (1) Equipment/Technology Modifications

☐ (2) Process/Procedure Modifications

☐ (3) Product Reformulation/Redesign

☐ (4) Raw Material Substitution

☐ (5) Improved Housekeeping/O&M/Training/Inventory Control

☐ (6) In-Process Recycling

☐ (7) Energy Efficiency/Conservation

☐ (c) Pollution Reduction (Complete Question #19)

☐ (d) Environmental Restoration and Protection

☐ (e) Assessments and Audits

☐ (f) Environmental Compliance Promotion

☐ (g) Emergency Planning and Preparedness

☐ (h) Other Program Specific SEP (Specify) _____

18. Cost of SEP. Cost Calculated by the PROJECT Model is Preferred. \$ _____

19. Quantitative Environmental Pollutants and/or Chemicals and/or Waste Streams, Amount of Reductions/Eliminations (e.g. Emissions/Discharges)

Pollutants/Chemical Waste Stream	Annual Amount CHECK ONE: <input type="checkbox"/> Reduced <input type="checkbox"/> Eliminated <input type="checkbox"/> Treated	Units**	Potentially Impacted Media***
_____	_____	_____	_____
_____	_____	_____	_____

****Acceptable Units:**

Pounds Per Year
People
Acres
Linear Feet (Small Stream)
Linear Feet (Medium Stream)
Linear Feet (Large Stream)
Gallons Per Year
Pounds

*****Acceptable Impacted Medias:**

Air
Land
Water (Navigable/Surface
Water (Wetlands)
Water (Wastewater to POTW)
Water (Underground Source of Drinking Water
Water (Ground)
Animals/Plants/Humans
Buildings/Houses/Schools

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E. Injunctive Relief/Compliance Actions (Non-SEP Related)

Note: Penalty orders without injunctive relief and Superfund administrative cost recovery agreements SHOULD SKIP THIS SECTION.

Exemption 7 ☒ (A) Interference with Enforcement Proceedings
☐ (B) Right to Fair Trial
☐ (C) Unwanted Invasion of Personal Privacy

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5 U.S.C. Section 552 (b)(5), Exemption 5,
Privileged Inter/Intra Agency Document

Specific Privilege: Predecisional Process Privilege

ALL STATUTES

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FACILITY/SITE MANAGEMENT AND INFORMATION PRACTICES (FMIP)

(Actions That Do Not Result in Pollutant Reductions/Eliminations)

- Exemption 7 ☒ (A) Interference with Enforcement Proceedings
☐ (B) Right to Fair Trial
☐ (C) Unwanted Invasion of Personal Privacy

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5 U.S.C. Section 552 (b)(3), Exemption 5,
Privileged Inter/Intra Agency Document
Specific Privilege: Predecisional Process
 privilege

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RCRA

For instructions and methodologies for calculating information for Direct Environmental Benefits and Preventative Actions, refer to **Chapter 7** of the Case Conclusion Data Sheet Guidance, Dated August 2004.

Actions With **DIRECT** Environmental Benefits and/or **DIRECT** Response/Corrective Action:

Cost: \$ _____ (REQUIRED: Form will be returned if this field is blank!)

RCRA 3002 (Standards for Generators of Hazardous Waste);
RCRA 3003 (Standards for Transporters for Hazardous Waste); or
RCRA 3004 (Hazardous Waste Treatment/Storage/Disposal Standards):

___ Waste Treatment
___ Waste Minimization

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media - CHECK ONE:</u>
1. _____	_____	<u>Pounds</u>	<input type="checkbox"/> Land <input type="checkbox"/> Ground Water <input type="checkbox"/> Navigable/Surface Water <input type="checkbox"/> Air _____
2. _____	_____	<u>Pounds</u>	<input type="checkbox"/> Land <input type="checkbox"/> Ground Water <input type="checkbox"/> Navigable/Surface Water <input type="checkbox"/> Air _____

RCRA 3008(h) (Interim Status Corrective Action Order):

___ Removal of Contaminated Medium
___ Containment
___ In Situ or Ex Situ Treatment

<u>Pollutant/Chemical/Waste Stream</u>	<u>Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media - CHECK ONE:</u>
1. _____	_____	<u>Cubic Yards</u>	<input type="checkbox"/> Soil <input type="checkbox"/> Groundwater _____
2. _____	_____	<u>Cubic Yards</u>	<input type="checkbox"/> Soil <input type="checkbox"/> Groundwater _____

Information Redacted pursuant to
5 U.S.C. Section 552 (b)(5), Exemption 5,
Privileged Inter/Intra Agency Document

Specific Privilege: Predecisional Process
Privilege

Exemption 7 ☒ (A) Interference with Enforcement Proceedings
_____ (B) Right to Fair Trial
_____ (C) Unwanted Invasion of Personal Privacy

RCRA Direct Environmental Benefits Continued:**RCRA 3023 (Hazardous Waste Discharge to Federally-Owned Treatment Works):**☐ Removal of Contaminated Medium

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media</u>
1. _____	_____	<u>Cubic Yards</u>	<u>Groundwater</u>
2. _____	_____	<u>Cubic Yards</u>	<u>Groundwater</u>

RCRA 7003 (Imminent Order: Solid or Hazardous Waste):☐ Removal of Contaminated Medium☐ In Situ or Ex Situ Treatment

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media - CHECK ONE:</u>
1. _____	_____	<u>Cubic Yards</u>	<input type="checkbox"/> Soil <input type="checkbox"/> Groundwater
2. _____	_____	<u>Cubic Yards</u>	<input type="checkbox"/> Soil <input type="checkbox"/> Groundwater

If additional pollutants and corresponding information should be listed, attach info to end of this form.**PREVENTATIVE Actions to Reduce Likelihood of Future Releases:****Cost: \$ _____ (REQUIRED! Form will be returned if this field is blank!)****RCRA 3002 (Standards for Generators of Hazardous Waste);****RCRA 3003 (Standards for Transporters for Hazardous Waste); or****RCRA 3004 (Hazardous Waste Treatment/Storage/Disposal Standards):**☐ Storage Change☐ Labeling/Manifesting☐ Disposal Change☐ Waste Identification☐ Secondary Containment

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u> <u>CHECK ONE:</u>	<u>Potentially Impacted Media - CHECK ONE:</u>
1. _____	_____	<input type="checkbox"/> Gallons <input type="checkbox"/> Cubic Yards	<input type="checkbox"/> Land <input type="checkbox"/> Ground Water <input type="checkbox"/> Navigable/Surface Water <input type="checkbox"/> Air
2. _____	_____	<input type="checkbox"/> Gallons <input type="checkbox"/> Cubic Yards	<input type="checkbox"/> Land <input type="checkbox"/> Ground Water <input type="checkbox"/> Navigable/Surface Water <input type="checkbox"/> Air

If additional pollutants and corresponding information should be listed, attach info to end of this form.

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FOR SELF-DISCLOSURE CASES ONLY
(COMPLETE ONLY IF FACILITY SELF-DISCLOSED VIOLATIONS)

F. Self-Disclosure Information

Did Company Self-Disclose Violations? ☐ Yes ☐ No

Date of Disclosure: _____

Was the Disclosure Resolved Under: ☐ Audit Policy ☐ Small Business Policy

If Resolved Under Small Business Policy, Provide SIC Code: _____

Was Disclosure Referred by Another Region or HQ? ☐ Yes ☐ No

If Yes, What Office? _____

Was Disclosure Part of Compliance Incentive Program? ☐ Yes ☐ No

If Yes, Choose All That Apply

- | | |
|--|--|
| <input type="checkbox"/> Bakers CFC Partnership Program | <input type="checkbox"/> Prisons Program |
| <input type="checkbox"/> CMOM POTW Program | <input type="checkbox"/> Storage Tank Emission Reduction Program |
| <input type="checkbox"/> Colleges & Universities Program | <input type="checkbox"/> Stormwater/Commercial Development Program |
| <input type="checkbox"/> Grain Processing Program | <input type="checkbox"/> Telecommunications Incentive Program |
| <input type="checkbox"/> Industrial Organic Chemical Program | <input type="checkbox"/> Wood Treaters Program |
| <input type="checkbox"/> Lead Disclosure Program | |
| <input type="checkbox"/> National Iron & Steel Incentive Program | |
| <input type="checkbox"/> Oil & Gas Program | |

Number of Facilities Associated With This Disclosure? _____

Any Outstanding Issues? ☐ Yes ☐ No (If yes, please describe): _____

Penalty Information:

Penalty Calculation Before Mitigation: \$ _____

% or Amount of Gravity-Based Penalty Waived: _____% OR \$ _____

Gravity-Based Penalty Assessed: \$ _____

Economic Benefit Assessed: \$ _____

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Privileged Inter/Intra Agency Document
Specific Privilege: Predecisional Process
Privilege

Exemption 7 ☒ (A) Interference with Enforcement Proceedings
☐ (B) Right to Fair Trial
☐ (C) Unwanted Invasion of Personal Privacy

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Rationale for Not Applying Disclosure Policy:

☐ No Violation Occurred

☐ Not a Systematic
Discovery

☐ Discovery Not Voluntary

☐ Disclosure Not Prompt

☐ Entity Had Repeat Violations

☐ Agreement or Order
Violated

☐ Violation(s) Not Corrected Expeditiously

☐ Discovery & Disclosure
Not Independent

☐ Cooperation Insufficient

☐ Actual Serious Harm or
Imminent &
Substantial Endangerment

☐ Federal Facility That Would Not Be Liable for a Penalty

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5 U.S.C. Section 552 (b)(5), Exemption 5,
Privileged Inter/Intra Agency Document
Specific Privilege: Predecisional Process
Privilege

Exemption 7 ☒ (A) Interference with Enforcement Proceedings
☐ (B) Right to Fair Trial
☐ (C) Unwanted Invasion of Personal Privacy

Note: Question Numbers Correspond with the Case Conclusion Data Sheet Guidance Booklet, Dated August 2004.

If You Have Any Questions, Please Contact Teresa Shirley-Wright at 2-9647 or Priscilla Johnson at 2-9614.

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ADMINISTRATIVE ACTION DATA SHEET

(To Be Submitted to OEA When:

- (1) a Complaint is Filed;
- (2) When a CAFO(b) Filed, Along with a Case Conclusion Data Sheet
- (3) a Non-Penalty Order is Issued; Along with a Case Conclusion Data Sheet)

1. Court Docket/Regional Hearing Clerk Docket No. RLAA-04-2005-4250
2. Case Name In the Matter of: U.S. Agri-Chemicals Corp.; Fort Meade FL Pa

EPA Lead Attorney Frank May Phone No. 404-562-9532

EPA Program Contact Bethany Russell Phone No. 404-562-8542

Facility Information

Information for One Facility (If More Facilities, Attach Additional Pages.)
(Use Location of Site of Violation; DO NOT use a P.O. Box #.)

9. Facility Name U.S. Agri-Chemicals Corp., Fort Meade Parkway
10. Street Address 3225 Highway 630 W County
- City Fort Meade State FL Zip Code 33841

Primary 4-Digit SIC Code 2874 (b) Other 4-Digit SIC Codes

EPA FRS No. FLD 045 003 316

Is This a Federal Facility? Yes X No Is This Indian Land? Yes X No
If Yes, What Tribe?

Is This a Small Business? Yes X No
("A person, corporation, partnership, or other entity that employs 100 or fewer employees.")

Is The Facility Located in an EJ Area? Yes X No
If Yes: Low Income Minority Population Both Other

Note: Question Numbers Correspond with the Case Conclusion Data Sheet Guidance Booklet, Dated August 2004.
If You Have Any Questions, Please Contact Teresa Shirley-Wright at 2-9647 or Priscilla Johnson at 2-9614.

7. Respondents/PRPs List:

[illegible]

Continue on Attached Page, if Necessary

8. Statute(s) and Section(s) Violated (NOT Authorizing Section Nor CFR):

42 USC § 6934

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Authorizing Section for Administrative Actions: _____/_____

If CERCLA, Is the Site on the NPL? ____ Yes ____ No

12. CFR Violation Citation(s):

40 CFR Part _____ Section _____

40 CFR Part _____ Section _____

40 CFR Part _____ Section _____

40 CFR Part _____ Section _____

Is this a MULTI-MEDIA action? ____ Yes ☒ No

If Yes, check all that apply:

CAA:

- ____ Mobile Source (Title II)
____ Stationary Source (Other Than Title II)
____ Prevention of Accidental Releases (112(r))

MPRSA:

- ____ Ocean Dumping

CERCLA:

- ____ Hazardous Site Response (CERCLA Superfund
Other Than 103 and/or RCRA 3013 or 7003)

RCRA:

- ____ Hazardous Waste Mgmt (Subtitle C)
____ Solid Waste Mgmt (Subtitle D)

CWA:

- ____ NPDES (Other Than 311 and 404)
____ Oil Pollution (311)
____ Wetlands (404)

SDWA:

- ____ Public Water Supply (1414 et seq.)
____ UIC (1421 et seq.)

EPCRA or EPCRA/CERCLA

- ____ Community Right-to-Know (313)
____ Release Notification/Emergency Preparedness
(Non-313 and/or CERCLA 103)

TSCA:

- ____ Asbestos Hazardous Emergency Response
Act (201)
____ Lead Exposure Reduction (409)
____ PCBs (6(e))
____ Toxic Substances (Other Than Lead or PCBs)

FIFRA:

- ____ Pesticides

UST:

- ____ Underground Storage Tanks (Subtitle I)

Was The Agency Activity Taken in Response to Environmental Justice Concerns? ____ Yes ____ No

Information Redacted pursuant to Exemption 7 ☒ (A) Interference with Enforcement Proceedings
5 U.S.C. Section 552 (b)(5), Exemption 5, ☐ (B) Right to Fair Trial
Privileged Inter/Intra Agency Document ☐ (C) Unwanted Invasion of Personal Privacy

3 (January 7, 2005 Version).

Specific Privilege: Predecisional Process
Privilege

PRIORITY INFORMATION

MOA Priority (Check All That Apply):

CAA Air Toxics:

- ☐ NSR/PSD Non-Coal-Fired Power Plant
- ☐ NSR/PSD Coal-Fired Power Plant

Wet Weather:

- ☐ CAFO (AFLOT)
- ☐ CSO (CSO)
- ☐ SSO (SS)
- ☐ Stormwater - MS4
- ☐ Stormwater - Industrial Non-Construction
- ☐ Stormwater - Industrial Construction

Petroleum Refining:

- ☐ Petroleum Refining

Tribal:

- ☐ Tribal

Mineral Processing:

- ☒ Phosphoric Acid
- ☐ Non-Phosphoric Acid
- ☐ Mining

Regional Priority (Check All That Apply):

- ☐ Coastal & Inland Marinas
- ☐ Corrective Action Facilities
- ☐ Geographic Initiative
- ☐ Hazardous Waste Facilities
- ☐ Metal Galvanizers
- ☐ Mobile Bay Compliance Assurance Initiative
- ☐ Plastics & Synthetic Resin Manufacturers
- ☐ Textile Industry
- ☐ Wood Preserving Facilities

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Date Complaint Filed: 3/30/05

Proposed Penalty Amount \$ _____
(Should be Amount Prior to Reductions Using a
Penalty Policy.)

Is This An Amended Complaint: ☐ Yes ☒ No

AND/OR Proposed Cost
Recovery Amount \$ 852,715

Self Disclosure Information

Did Company Self-Disclose Violations? ☐ Yes ☐ No

Does Company Have Less Than 100 Employees? ☐ Yes ☐ No
(Note: If Yes, Treat As If Violations Were Disclosed Under EPA's Small Business Policy)

Date Violations Disclosed: / /

Has the Inspection Information Been Entered into ICIS? ☐ Yes ☒ No

If Yes, What is the ICIS Compliance Monitoring Activity Name (Exactly): _____

What Type of Inspection was Conducted (Statute/Section)? _____

Date of Inspection: _____

Exemption 7 ☒ (A) Interference with Enforcement Proceedings
☐ (B) Right to Fair Trial
☐ (C) Unwanted Invasion of Personal Privacy

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Specific Privilege: Predecisional Process
Privilege

Violation Types

CAA

- ☐ Asbestos Demolition/Renovation Work Practices Requirements
- ☐ Asbestos Requirement Violation
- ☐ Asbestos-In-Schools Violation
- ☐ Discharge, Emission, or Activity Without Required Permit
- ☐ Violation of Permit Requirement
- ☐ National Emission Standard for Hazardous Air Pollutant
- ☐ New Source Review
- ☐ Prevention of Significant Deterioration
- ☐ Risk Management Plan
- ☐ Stratospheric Ozone Protection Violation
- ☐ Tampering w/Emissions Control Device
- ☐ Violation of Reporting Requirements
- ☐ Violation of Requirement to Monitor/Maintain Records
- ☐ Other/Miscellaneous

FIFRA

- ☐ Container Requirements
- ☐ Exports Violation
- ☐ Imports Violation
- ☐ Failure to Notify
- ☐ Failure to Report Information As Required
- ☐ General Facility Requirements
- ☐ Good Laboratory Practices
- ☐ Packaging Requirements
- ☐ Labeling/Marking Requirements
- ☐ Microbial Violations
- ☐ Violation of Previously Issued AO
- ☐ Violation of Information Letter Response
- ☐ Violation of Storage Facility Requirements
- ☐ Violations of Reporting Requirements
- ☐ Violation of Requirement to Monitor/Maintain Records
- ☐ Other/Miscellaneous
- ☐ Worker Protection Standards

NPDES

- ☐ Animal Feedlots
- ☐ Discharge, Emission, or Activity Without a Required Permit
- ☐ Sanitary Sewer Overflows
- ☐ Stormwater Overflows
- ☐ Violation of a Permit Requirement
- ☐ Violation of Requirement to Monitor/Maintain Records

RCRA

- ☐ Battery Management Act Violation
- ☐ Benzene Waste
- ☒ Bevill Enforcement Case
- ☐ Closure & Post-Closure Requirements
- ☐ Container Requirements
- ☐ Discharge, Emission, or Activity Without Required Permit
- ☐ Disposal Facility Requirements - Not Otherwise Specified
- ☐ Exports Violation
- ☐ Imports Violation
- ☐ Failure to Notify
- ☐ Failure to Report Information as Required
- ☐ General Facility Requirements
- ☐ Groundwater Monitoring Requirements
- ☐ Labeling/Marking Requirements
- ☐ Land Ban
- ☐ Monitoring Requirements
- ☐ K061 Initiative
- ☐ Misidentified Waste
- ☐ Permit Evader
- ☐ Treatment Facility Requirement
- ☐ Violation of a Previously Issued AO
- ☐ Violation of a Permit Requirement
- ☐ Violation of Requirement to Monitor/Maintain Records



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 30 2005

4WD-RCRA

BY FEDERAL EXPRESS

Ralph DeMeo, Esq.
Hopping Green & Sams P.A.
123 South Calhoun Street
Tallahassee, FL 32301

SUBJ: Final Administrative Orders on Consent under Section 3013 of RCRA
U.S. Agri-Chemicals Corporation (USAC)
Fort Meade and Bartow, Florida Facilities
EPA ID Nos.: Fort Meade: FLD 045 003 316; Bartow: FLD 041 497 512

Dear Mr. Demeo:

On March 29, 2005, we received the above referenced Final Consent Orders (Orders) executed by your client. Thanks for expeditiously having these Orders signed and returned. Enclosed, please find copies of the fully executed above referenced Orders. They were executed by EPA on March 30, 2005, and thus, pursuant to Section XXVII of each Order they became effective on that date.

This letter also confirms our telephone conversation on March 29, 2005, when I informed you that due to a clerical error the Bartow Order paragraph numbering skips from 37 to 40 and the Fort Meade Order paragraph numbering skips from 49 to 51. You agreed that it was not a problem to re-print the Orders, inserting the missing paragraph numbers with the statement "omitted" by them and attach your client's signature pages. This would serve to correct the clerical error and is preferable to going through the process of having your Chief Operating Offices re-sign a new document.

If you have any questions please give me a call at (404) 562-9532. Thanks again for your cooperation.

Sincerely,

Frank S. Ney
Associate Regional Counsel

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:

U.S. Agri-Chemicals Corporation
3225 Highway 630W
Fort Meade, Florida 33841

RESPONDENT

EPA ID No.: FLD 045 003 316

) ADMINISTRATIVE
) ORDER ON CONSENT
)
)
) Docket No: RCRA-04-2005-4250
)
)
) Proceeding under Section 3013(a) of the
) Resource Conservation and Recovery Act,
) as amended, 42 U.S.C. § 6934(a)

RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT**TABLE OF CONTENTS**

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RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT**I. JURISDICTION**

1. This Administrative Order on Consent (Consent Order) is issued pursuant to the authority vested in the Administrator of the Environmental Protection Agency ("EPA" or "Agency") by Section 3013(a) of the Resource Conservation and Recovery Act, ("RCRA" or "the Act"), as amended, 42 U.S.C. § 6934(a). The authority to enter into this Consent Order has been duly delegated to the Director of the Waste Management Division, EPA Region 4.
2. This Consent Order is issued to U.S. Agri-Chemicals Corporation, ("USAC" or "Respondent"), a subsidiary of USAC, Inc., a corporation doing business in the State of Florida. Respondent consents to and agrees not to contest EPA's authority to issue this Consent Order and to enforce its terms. Further, Respondent will not contest EPA's authority to: compel compliance with this Consent Order in any subsequent enforcement proceedings; require Respondent's full or interim compliance with the terms of this Consent Order; or impose sanctions for violations of this Consent Order; provided, however, that Respondent retains any and all rights it may have to dispute the merits of any such claims.
3. Respondent does not waive its right to contest EPA's assertion of jurisdiction over any other matter concerning the Facility, including, but not limited to, EPA's authority to issue any other order to it under RCRA in the future. EPA and Respondent agree that by entering into this Consent Order, Respondent does not admit any liability arising out of, or, Findings of Fact, Conclusions of Law, and Determinations related to, the acts or omissions alleged in this Consent Order.
4. This Consent Order is based upon the administrative record compiled by EPA and incorporated herein by reference. The record is available for review by the Respondent and the public at EPA's Regional Office at 61 Forsyth Street, S.W., Atlanta, GA 30303. Contact Bethany Russell for access to the file at (404) 562-8542.
5. The State of Florida's RCRA program was authorized under 3006(b) of RCRA, 42 U.S.C. 6926(b) on February 12, 1985. The requirements of the authorized State program are found in Fla. Stat. § 403.701 et seq. and Florida Administrative Code (FAC) R. 62-730. Although EPA has granted the State authority to enforce its own hazardous waste program, EPA retains its authority under Section 3013(a) of the Act.

II. PARTIES BOUND

6. The provisions of this Consent Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, contractors, successors, and assigns.

7. No change in ownership, corporate, or partnership status relating to the Facility described in this Consent Order will in any way alter the status or responsibility of Respondent under this Consent Order. Any conveyance by Respondent of title, easement, or other interest in the Facility described herein, or a portion of such interest, shall not affect Respondent's obligations under this Consent Order. Respondent shall be responsible and liable for any failure to carry out all activities required of Respondent by this Consent Order, irrespective of its use of employees, agents, contractors, or consultants to perform any such tasks.

8. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Consent Order within seven (7) calendar days of the effective date of this Consent Order, or on the date of such retention, and Respondent shall condition all such contracts on compliance with the terms of this Consent Order.

9. Any documents transferring ownership and/or operations of the Facility described herein from Respondent to a successor-in-interest shall include written notice of this Consent Order. In addition, Respondent shall, no less than thirty (30) days prior to transfer of ownership or operation of the Facility, provide written notice of this Consent Order to its successor-in-interest, and written notice of said transfer of ownership and/or operation to EPA.

III. STATEMENT OF PURPOSE

10. In entering into this Order, the mutual objectives of EPA and Respondent are the protection of human health and the environment through Respondent's implementation of sampling, analysis, monitoring and reporting at the facility. In meeting these objectives, Respondent shall prepare and submit for approval to EPA a Workplan to determine the nature and extent of any release of hazardous waste and/or hazardous constituents to the environment, at or from the Facility. After EPA approval of the Workplan, Respondent must then implement the agreed upon activities.

IV. FINDINGS OF FACT

11. Respondent's Facility covered by this Consent Order is approximately 800 acres and is located at 3225 County Road 630 West, in Fort Meade, Florida. The Facility began in 1961 under the ownership of Armour Agricultural Chemicals Company. Primary operations at that time included one production line each for the manufacture of sulfuric acid, phosphoric acid, and triple super phosphate. USS (U.S. Steel) Agri-Chemicals Company purchased the Facility in 1968 and continued operation of all three production lines until 1982. In 1982, U.S. Steel completed replacement of the sulfuric acid plant (SAD) and the phosphoric acid plant (PAD); however, the triple super phosphate plant was demolished. Respondent purchased the Facility in 1989 and in 1995 added monoammonium phosphate (MAP) production.

12. At present, the primary operations at the Facility are the production of sulfuric acid, phosphoric acid, and MAP by reacting phosphoric acid with ammonia. MAP is a processed fertilizer primarily used on grain and oilseed crops.

13. Information provided by USAC and the National Response Center (NRC) show that accidental releases of hazardous waste and hazardous constituents have occurred at the Facility. The following is a list of documented accidental releases of hazardous waste into the environment at the Facility, since 1989:

- A. On February 28, 2002, 8,000 lbs of phosphoric acid were released to the soil when a "cold transfer pipe cracked from hot acid."
- B. On July 27, 2002, approximately 1,500 gallons of phosphoric acid were released from a ruptured pipeline to a wastewater ditch onsite.

14. Upon discharge, the phosphoric acid is no longer a usable material, and as such, has been "disposed" of and is a "solid waste," as those terms are defined in 40 C.F.R. §§ 260.10 and 261.2, respectively.

15. The discharged phosphoric acid is characteristically corrosive with a pH less than 2 (EPA hazardous waste code D002) and thus is a hazardous waste as that term is defined in 40 C.F.R. § 261.3.

16. Phosphoric acid is a medium to strong acid, which causes severe burns to the skin. It is a suspected neurotoxicant, a suspected respiratory toxicant, and a suspected skin or sense organ toxicant. Confirmatory sampling of the soil in the area of this spill is warranted to ascertain whether hazardous constituents have been released into soil and/or groundwater or are still present in soil and/or groundwater.

17. To produce phosphoric acid, the Facility digests phosphate rock with sulfuric acid. The reaction produces phosphoric acid and calcium sulfate, commonly referred to as gypsum. During the reaction, precipitated crystals of gypsum are separated from the acid via filtration and rinsed to recover residual phosphoric acid. After rinsing, the gypsum is slurried with water and is pumped into a storage pond located on the top of a gypsum storage stack (gypstack).

18. Decant water from the gypsum storage stack is commingled with some process and non-contact cooling water in unlined cooling water ponds and ditches on-site. The used water is circulated through the ditches and ponds and, once cool, recirculated into the process for reuse.

19. Leachate from gypsum storage stacks and process water from the production of phosphoric acid typically contain metals such as arsenic and cadmium and, without neutralization, is characteristically corrosive with a pH of less than 2.

20. Respondent currently manages one unlined gypsum storage stack that is no longer actively used, and currently manages phase one of a dual-phase lined gypsum stack.

21. The inactive, unlined gypsum storage stack is a solid waste management unit (SWMU). A SWMU is defined as any discernible unit at which solid wastes have been placed at any time irrespective of whether the unit was intended for the management of solid or hazardous waste.

22. Due to the fact that this is an unlined unit and that this unit was used for the management of solid waste prior to the effective date of RCRA (November 19, 1980), there is a possibility of a release of hazardous constituents from this SWMU into the environment. Confirmatory sampling is warranted to ascertain whether hazardous constituents have been released from this unit into soil and/or groundwater or are still present in soil and/or groundwater.

23. On June 11, 2004, 51,000 gallons of "pondwater" containing phosphoric acid were accidentally released into a water drainage ditch from a broken pipe running to the Facility.

24. The unlined cooling water pond(s) are SWMUs, as that term is described in Paragraph 21. EPA acknowledges that according to USAC, the unlined cooling water pond currently receives wastewater which has been neutralized; however, due to the fact that this is an unlined unit and that there is limited information regarding the historical use of the unit, and that this unit was used for the management of solid waste prior to the effective date of RCRA (November 19, 1980), there is a possibility of a release of hazardous constituents from this SWMU into the environment. Confirmatory sampling is warranted to ascertain whether hazardous constituents have been released from this unit into soil and/or groundwater or are still present in soil and/or groundwater.

25. The unlined outbound overflow ditch is a SWMU, as that term is described in Paragraph 21. EPA acknowledges that according to USAC, the unlined wastewater transport ditch currently receives wastewater which has been neutralized; however, due to the fact that this is an unlined unit and that there is limited information relating to the historical use of the ditch, and that this unit was used for the management of solid waste prior to the effective date of RCRA (November 19, 1980), there is a possibility of a release of hazardous constituents from this SWMU into the environment. Confirmatory sampling is warranted to ascertain whether hazardous constituents have been released from this unit into soil and/or groundwater or are still present in soil and/or groundwater.

26. Low pH aqueous liquids facilitate the mobilization of metals, such as arsenic and cadmium. Metals are readily leached from soils and/or sediment into groundwater upon contact with a solution of pH less than 3.5.

27. As noted by recent groundwater sampling activities at the Facility by facility personnel, depth to the surficial aquifer at the Facility is 6.8 feet. Unless specific exemptions are permitted pursuant to F.A.C. Chapter 62-520, all ground water in the state of Florida must meet drinking water standards. However, pursuant to F.A.C. Chapter 62-520.420 USAC has a groundwater monitoring system approved by the Florida Department of Environmental Protection which allows groundwater on-site (within the "zone of discharge," as described below in Paragraph 39(4)(e)) to meet the "Minimum Criteria for Ground Water" set forth in F.A.C. Chapter 62-520.400. As such, potential contamination of groundwater off-site or outside the "zone of discharge" may result in potential contamination of potable drinking water.

V. DETERMINATIONS AND CONCLUSIONS OF LAW

28. Respondent's Facility is a "facility or site" within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).

29. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

30. Respondent is an "owner" and "operator" of the Facility located at 3225 Hwy 630W, Fort Meade, Florida, within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).

31. Section 1004(27) of RCRA, 42 U.S.C. § 6905(27) defines the term "solid waste" to mean "any garbage, refuse . . . and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations . . ."

32. Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), defines the term "hazardous waste" to mean:

a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may-

(A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

33. Section 1004(3) of RCRA, 42 U.S.C. § 6903(3), defines the term "disposal" to mean "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters."

34. Section 1004(6) of RCRA, 42 U.S.C. § 6903(6), defines the term "hazardous waste constituent" to mean a constituent that caused the Administrator to list the hazardous waste in part 261, subpart D, or a constituent listed in table 1 of Section 261.24.

35. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has hereby determined that USAC is a facility at which hazardous wastes, as that term is defined in 42 U.S.C. § 6903(5), and hazardous constituents are present and at which hazardous wastes and hazardous constituents have been treated, stored or disposed.

36. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has determined that the release of hazardous wastes, as defined by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), at USAC's Facility, may present a substantial hazard to human health or the environment.

37. EPA has further determined that USAC, as owner and operator of the Facility, is the party responsible for conducting the actions ordered herein, which are necessary to ascertain the nature and extent of the potential hazard to human health or the environment.

VI. ORDER

38. The term "days" as set forth herein means calendar days unless otherwise specified.

39. Pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), Respondent consents to and is hereby ordered to perform the following actions in the manner and by the dates specified herein:

Sampling and Analysis Plan

1. Within thirty (30) days of the effective date of this Consent Order, Respondent shall submit to EPA for approval, an Outline for a Sampling and Analysis Workplan ("Outline"), for carrying out the required monitoring, testing, analysis, and reporting.
2. Within sixty (60) days of EPA's approval of the Outline, Respondent shall submit to EPA, a Sampling and Analysis Workplan ("Workplan").

3. The Sampling and Analysis Workplan shall be designed to determine the presence, magnitude, extent, direction, and rate of movement of any hazardous waste and/or hazardous constituents within and beyond the Facility boundary. The Workplan shall document the procedures Respondent shall use to conduct those activities necessary to: (a) characterize the source(s) of contamination; (b) characterize the potential pathways of contaminant migration; (c) define the degree and extent of contamination; and (d) identify actual or potential human and/or ecological receptors. Respondent may implement the work contained in the Workplan in a phased approach. A specific schedule for expeditious implementation of all activities shall be included in the Workplan.
4. At a minimum, USAC's Workplan for assessment must include the following:
 - (a) Process water samples from the MAP and sulfuric acid processes, i.e. scrubber water intake and discharge from the MAP process and discharge water from the sulfuric acid plant, which includes water from the ENU, boiler blowdown, and cooling tower blowdown.
 - (b) A sediment and/or soil, as appropriate, sampling and analysis section to collect and analyze representative sediment and/or soil samples to determine the nature and extent of potential contamination, both vertically and horizontally, at the areas of the phosphoric acid spills, cooling water ditches and ponds, stormwater and non-process water ditches and ponds, any water transport ditches associated with process waters, and ditches associated with the NPDES outfall. The Workplan shall include the number, location, and depth of the samples, and the parameters for analysis.
 - (c) A leachate and run-off sampling and analysis section to determine the nature and extent of potentially contaminated leachate and run-off flowing from the portions of the facility adjacent to and down-gradient from the inactive gypstack, the MAP production plant and the sulfuric acid plant. The Workplan shall include the number, location, depth of samples, and the parameters for analysis.
 - (d) A groundwater sampling and analysis section to characterize the groundwater quality and the extent of any groundwater contamination, both vertically and horizontally, which may exist in and around the areas of the phosphoric acid spills, the inactive gypstack, cooling water ditches, process and non-process water storage ponds and transport ditches,

stormwater outfall(s), the mono-ammonium phosphate and sulfuric acid plants, and which may be migrating from the Facility. The Workplan shall include the number, location, and depth of groundwater samples (either from existing wells, temporary wells, or direct-push technology), the number and frequency of samples to be taken, and the parameters for analysis.

- (e) Upon confirmation of the existence of hazardous constituents beyond the Facility "zone of discharge," a section addressing a potable well survey within a ½ mile radius of the Facility including a schedule for sampling of each well, and the parameters for analysis. At the Facility, the "zone of discharge" is bounded by twenty-nine groundwater monitoring wells. A majority of these wells are located inside the property boundary. The Facility will include a map detailing the locations of the wells.

Upon confirmation of an exceedance of Florida drinking water standards in any of the potable wells, the well survey will be extended by ½ mile radial increments in the appropriate direction depending on the results of the initial well survey.

- (f) Upon confirmation of the existence of hazardous constituents outside the "zone of discharge" in soil (exceeding SSLs) and/or groundwater (exceeding background levels), a section addressing an Environmental Indicator Assessment shall be included.
- (g) A survey which identifies any wetlands, creeks, or lakes within a one (1) mile radius of the Facility. This survey should also identify any such bodies of water which are used for public recreational purposes or may contain endangered species.
- (h) (a) a Project Management Plan; (b) a Data Collection Quality Assurance Plan; (c) a Data Management Plan; (d) a Community Relations Plan and (e) shall provide a timeline for work detailed above and a schedule for the submission of progress reports, a Draft Sampling and Analysis Report, and a Final Sampling and Analysis Report.

- 5. Concurrent with the submission of the Sampling and Analysis Workplan, Respondent shall submit a Health and Safety Plan.
- 6. Upon receipt of EPA approval of the Workplan, Respondent shall implement the EPA-approved Workplan in accordance with the terms and schedules contained

therein. Upon completion of implementation of the Workplan, Respondent shall submit to EPA for approval a Draft Sampling and Analysis Report, in accordance with the requirements and schedule contained in the EPA-approved Sampling and Analysis Workplan. Upon approval of the Draft Sampling and Analysis Report by EPA, Respondent shall submit a Final Sampling and Analysis Report.

40. EPA acknowledges that Respondent may have completed some of the tasks required by this Consent Order and/or that Respondent may have available some of the information and data required by this Consent Order. This previous work may be used to meet some of the requirements of this Consent Order, upon submission to and formal approval by EPA.

VII. ADDITIONAL WORK

41. Based on work performed under the Workplan described above, EPA may determine that additional monitoring, testing, analysis, and/or reporting is necessary to ascertain the nature and extent of any hazard to human health and the environment which may be presented by the presence or release of hazardous wastes and/or hazardous constituents at or from the Facility. If EPA determines that such additional work is necessary, EPA will notify Respondent in writing and specify the basis for its determination that additional work is necessary. Within fifteen (15) days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. If required by EPA, Respondent shall submit for EPA approval a Workplan for the additional work. EPA will specify the contents of such Workplan. Such Workplan shall be submitted by Respondent within thirty (30) days of receipt of EPA's determination that additional work is necessary, or according to an alternative schedule established by EPA.

VIII. MINIMUM QUALIFICATIONS FOR PERSONNEL

42. All work performed by or for the Respondent pursuant to this Consent Order shall be under the direction and supervision of an individual who has demonstrated expertise in hazardous waste site investigation. Before any work is performed, Respondent shall submit to EPA, in writing, the name, title, and qualifications of the supervisory personnel and of any contractors or subcontractors to be used in carrying out the terms of this Consent Order. Additionally, the Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform any work required by this Consent Order.

IX. SUBMISSIONS/EPA REVIEW

43. EPA will review Respondent's Outline, Workplan, Draft and Final Reports, and any other documents submitted pursuant to this Consent Order ("submissions"), with the exception of progress reports, and will notify Respondent in writing of EPA's approval or disapproval of each such submission. In the event of EPA's disapproval, EPA shall specify in writing any

deficiencies in the submission. Such disapproval shall not be subject to the dispute resolution procedures of Section XVII. below.

44. Within thirty (30) days of receipt of EPA's comments on the submission, Respondent shall submit to EPA for approval a revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a revised submission. In the event that EPA disapproves the revised submission, Respondent may invoke the dispute resolution procedures of Section XVII. EPA reserves the right to revise such submission and seek to recover from Respondent the costs thereof, in accordance with any rights that it may have under RCRA, Comprehensive Environmental Response, Compensation and Liability Act CERCLA ("CERCLA") and any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

45. Upon disapproval by EPA of a revised submission, and in the event Respondent does not invoke the dispute resolution procedures of Section XVII. Respondent shall submit to EPA, within fifteen (15) days of EPA's disapproval, a subsequent revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a subsequent revised submission.

46. In the event EPA and Respondent cannot resolve issues relating to EPA's comments and EPA disapproves of any subsequent revised submission, Respondent shall be deemed in non-compliance of this Consent Order. Respondent may invoke the dispute resolution procedures of Section XVII. EPA reserves the right to revise such submission and to seek to recover from Respondent the costs of revising the subsequent submission in accordance with RCRA, CERCLA and/or any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

47. Beginning with the first day of the second full month following the effective date of this Consent Order, and every two months thereafter on the first day of the month, for the first six months that this Consent Order is effective, Respondent shall provide EPA with bimonthly progress reports demonstrating that the activities associated with this Consent Order are being carried out. Thereafter, throughout the period this Consent Order is effective, Respondent shall provide EPA with such reports on a quarterly basis.

48. EPA shall endeavor to timely approve or disapprove any deliverable submitted by Respondent for approval pursuant to this Consent Order. Nothing in this paragraph shall be

construed to confer any enforceable rights upon Respondent, nor shall any failure to comply with the provisions of this paragraph be subject to the dispute resolution provisions set forth in Section XVII.

49. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

- a. Four (4) copies (one hard copy, double-sided if possible and 3 electronic copies) of all documents to be submitted to EPA, unless otherwise provided in the Workplan or agreed to by EPA, shall be sent to:

Jeffrey T. Pallas, Chief
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Phone: (404) 562-8569
Fax: (404) 562-8566
Email: pallas.jeff@epa.gov

- b. One (1) copy of all documents submitted to EPA shall also be sent to:

William Kutash, Administrator
Waste Program
Department of Environmental Protection
Southwest District Office
3804 Coconut Palm Drive
Tampa, FL 33619
Phone: (813) 744-6100, x 353
Fax: (813) 744-6125
Email: William.Kutash@dep.state.fl.us

- c. One (1) copy of all documents submitted to EPA shall also be sent to:

Tim Bahr, Administrator
Hazardous Waste Regulation
Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Phone: (850) 245-8790
Fax: (850) 245-8810
Email: Tim.Bahr@dep.state.fl.us

- d. One (1) copy of all documents submitted to EPA shall also be sent to:

Sam Zamani, PE Administrator
FDEP/Phosphate Management
8407 Laurel Fair Circle
Tampa, FL 33610
Phone: (813) 744-6100
Fax: (813) 744-6457
Email: sam.zamani@dep.state.fl.us

- e. Documents to be submitted to Respondent shall be sent to:

Ron Brunk, Environmental Manager
U.S. Agri-Chemicals Corporation
3225 Highway 630W
Fort Meade, Florida 33841
Phone: (863) 285-8121, x 279
Fax: (863) 285-7088
Email: usacenv@gte.net

50. Omitted.

51. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a duly authorized representative of Respondent. A person is a "duly authorized representative" only if: (a) the authorization is made in writing; (b) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (c) the written authorization is submitted to the Project Coordinator designated by EPA pursuant to Section XI. Project Coordinator, of this Consent Order.

52. The certification required by paragraph 51 above, shall be in the following form:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate

the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature : _____

Name: _____

Title: _____

X. QUALITY ASSURANCE/QUALITY CONTROL

53. Respondent shall follow EPA guidance for sampling and EPA guidance or National Environmental Laboratory Accreditation Conference (NELAC) standards for sample analysis, as appropriate. Respondent shall develop a Quality Assurance Project Plan (QAPP) for all sampling and analysis conducted under this Consent Order. The Workplan shall contain quality assurance/quality control (QA/QC) and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the QA/QC and chain of custody procedures in an approved Workplan must be approved by EPA prior to implementation; must be documented, including reasons for the deviations; and must be reported in the applicable report.

54. The contact person(s), name(s), addresses, and telephone numbers of the analytical laboratories Respondent proposes to use must be specified in the applicable Workplan.

55. All Workplan(s) required under this Consent Order shall include data quality objectives for each data collection activity to ensure that data of known and appropriate quality are obtained and that data are sufficient to support their intended use(s).

56. Respondent shall monitor to ensure that high quality data is obtained by its consultant or contract laboratories. Respondent shall ensure that laboratories used by Respondent for analysis perform such analysis according to the latest approved edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846, as amended), or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall specify and submit all such protocols for EPA approval in a Workplan amendment. EPA may reject any data that does not meet the requirements of the approved Workplan or EPA analytical methods and may require re-sampling and additional analysis.

57. Respondent shall ensure that laboratories it uses for analyses participate in a QA/QC program equivalent to that which is followed by EPA. EPA may conduct a performance and

QA/QC audit of the laboratories chosen by Respondent before, during, or after sample analyses. Upon request by EPA, Respondent shall have its laboratory perform analyses of samples provided by EPA to demonstrate laboratory performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, re-sampling and additional analysis may be required.

XI. PROJECT COORDINATOR

58. EPA hereby designates as its Project Coordinator:

Bethany Russell, Environmental Scientist
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Phone: (404) 562-8542
Fax: (404) 562-8566
Email: russell.bethany@epa.gov

59. Respondent hereby designates as its Project Coordinator:

Ron Brunk, Environmental Manager
U.S. Agri-Chemicals Corporation
3225 Highway 630W
Fort Meade, Florida 33841
Phone: (863) 285-8121, x 279
Fax: (863) 285-7088
Email: usacenv@gte.net

60. Each Project Coordinator shall, on behalf of the party that designated the Project Coordinator, oversee the implementation of this Consent Order and function as the principal project contact.

61. Respondent shall provide EPA with a written notice of any change in its Project Coordinator. Such notice shall be provided at least seven (7) days prior to the change in Project Coordinator.

XII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

62. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent pursuant to the requirements of this Consent Order.

63. Respondent shall notify EPA and FDEP, in writing or by electronic mail, at least ten (10) days in advance of engaging in any field activities at the Facility conducted pursuant to this Consent Order. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split and/or duplicate samples of all samples collected by Respondent pursuant to this Consent Order. Similarly, at the request of Respondent, EPA will allow Respondent or its authorized representatives to take split and/or duplicate samples of any samples collected by EPA under this Consent Order, provided that such sampling shall not delay EPA's proposed sampling activities. Nothing in this Consent Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and/or CERCLA.

XIII. ON-SITE AND OFF-SITE ACCESS

64. Respondent shall provide access at all reasonable times to the Facility and to all records and documentation relating to conditions at the Facility and the activities conducted pursuant to this Consent Order to EPA and its employees, contractors, agents, consultants, and representatives. These individuals shall be permitted to move freely at the Facility, following site-specific safety training, in order to conduct activities which EPA determines to be necessary.

65. To the extent that activities required by this Consent Order, or by any approved Workplan(s) prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent will use its best efforts to obtain site access agreements in a timely manner from the present owners of such property. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. Respondent shall ensure that EPA's Project Coordinator has a copy of any access agreements.

66. Nothing in this Consent Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including RCRA and CERCLA.

XIV. RECORD PRESERVATION

67. Respondent shall retain, during the pendency of this Consent Order and for a minimum of five (5) years after its termination, a copy of all data, records, and documents now in its possession or control, or in the possession or control of its contractors, subcontractors, representatives, or which come into the possession or control of the Respondent, its contractors, subcontractors, or representatives, which relate in any way to this Consent Order. Respondent shall notify EPA, in writing, at least ninety (90) days in advance of the destruction of any such records, and shall provide EPA with the opportunity to take possession of any such records. Such written notification shall reference the caption, docket number and date of issuance of this Consent Order and shall be addressed to:

Jeffrey T. Pallas, Chief
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
Waste Management Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Additionally, Respondent shall provide data, records and documents retained under this Section at any time before the expiration of the five (5) year period at the written request of EPA.

68. Nothing in this Consent Order limits or otherwise affects Respondent's obligation to preserve records and documentation pursuant to applicable law.

XV. INFORMATION SUBMITTED TO EPA

69. Respondent may assert a business confidentiality claim in the manner described in 40 CFR § 2.203(b) covering all or part of any information submitted to EPA pursuant to this Consent Order. In accordance with 40 CFR § 2.204(e)(4), any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made. Information submitted for which Respondent has asserted a claim of confidentiality as specified above shall be disclosed by EPA only to the extent and manner permitted by 40 CFR Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to the Respondent. Respondent agrees not to assert any confidentiality claim with respect to any physical, sampling, monitoring, or analytical data. The agreement to not assert any confidentiality claim with respect to this Order, does not include sampling data related to product streams, such as reactor inputs.

70. In the event that Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Consent Order, Respondent shall identify the document, the privilege claimed and the basis therefor in writing. For the purposes of this Consent Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure and/or any applicable case law. EPA may dispute any such claim of privilege.

XVI. DELAY IN PERFORMANCE/STIPULATED PENALTIES

71. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVIII. Force Majeure, in the event that Respondent fails to comply with any requirement set forth in this Consent Order, Respondent shall pay stipulated penalties, as set forth below, upon receipt of written demand by EPA.

72. Compliance by Respondent shall include commencement or completion, as deemed appropriate by EPA, of any activity, plan, study or report required by this Consent Order, and in the manner required by this Consent Order and within the specified time schedules in and approved under this Consent Order. Stipulated penalties shall accrue as follows:

- a. For any failure to commence, perform or complete work as prescribed in this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,500 per day for each day of noncompliance, or part thereof, thereafter;
- b. For any failure to submit any draft or final Workplan, plans, or reports as required by this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,500 per day for each day of noncompliance, or part thereof, thereafter; and
- c. For any failure to submit other deliverables as required by this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,000 per day for each day of noncompliance, or part thereof, thereafter.
- d. All stipulated penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue through the final day of or correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

73. All stipulated penalties owed to EPA under this section shall be due within thirty (30) days of receipt of a demand for payment, unless Respondent invokes the dispute resolution procedures under Section XVII. Such demand for payment shall describe the noncompliance and shall indicate the amount of stipulated penalties due.

74. All stipulated penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

United States Environmental Protection Agency
Region 4
P.O. Box 100142
Atlanta, Georgia 30384

All payments shall reference the Respondent's name and address, and the EPA Docket Number of this Consent Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator at the address in paragraph 58 and to the Regional Hearing Clerk at:

United States Environmental Protection Agency
Region 4
61 Forsyth Street
Atlanta, GA 30303

75. Respondent may dispute EPA's demand for payment of stipulated penalties for any alleged violation of this Consent Order by invoking the dispute resolution procedures below under Section XVII. Stipulated penalties shall continue to accrue, but are not required to be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, Respondent shall remit to EPA within twenty-one (21) days of receipt of EPA's written decision as to said dispute, any outstanding penalty payment in the manner described above in Paragraph 74 of this Section.

76. Neither the filing of a petition to resolve a dispute nor the payment of stipulated penalties shall alter in any way Respondent's obligation to comply with the requirements of this Consent Order.

77. The assessment of stipulated penalties set forth in this section shall not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order.

XVII. DISPUTE RESOLUTION

78. If a dispute arises under this Consent Order, the procedures of this section shall apply. The Parties shall make reasonable efforts to informally resolve disputes at the Project Coordinator or immediate supervisor level.

79. If Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by EPA pursuant to this Consent Order, Respondent shall notify EPA in writing of its objections, and the basis therefor, within fourteen (14) calendar days of receipt of EPA's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters which it considers necessary for EPA's determination. EPA and Respondent shall have an additional fourteen (14) days from the receipt by EPA of the notification of objection, during which time representatives of EPA and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) day period, EPA will furnish to Respondent, in writing, its decision on the pending dispute. Said written decision shall state the basis and rationale for the decision.

80. Except as provided in Paragraph 79 above, the existence of a dispute, as defined in this section, and EPA's consideration of matters placed into dispute, shall not excuse, toll or suspend any other compliance obligation or deadline required pursuant to this Consent Order during the pendency of the dispute resolution process.

81. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA pursuant to this Consent Order, shall constitute final agency action giving rise to any right to judicial review.

XVIII. FORCE MAJEURE

82. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events which constitute a *force majeure*. Respondent shall have the burden of proving such a *force majeure*. A *force majeure* is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include: increased costs of performance; changed economic circumstances; failure to obtain federal, State or local permits; reasonably foreseeable weather conditions; or weather conditions which could have been overcome by due diligence.

83. Respondent shall notify EPA, in writing, within ten (10) days after it becomes or should have become aware of any event which Respondent claims constitutes a *force majeure*. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated time table for implementation of these measures. Failure to comply with the notice provision of this paragraph shall constitute a waiver of Respondent's right to assert a *force majeure* claim with respect to such event. If, in EPA's sole and unreviewable discretion, EPA determines that the failure to give notice was not prejudicial to EPA, Respondent's failure to give notice shall not constitute a waiver. In addition to the above notification requirements, Respondent shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after it becomes or should have become aware of any event which may delay such compliance.

84. If EPA determines that the failure to comply or delay has been or will be caused by a *force majeure*, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such *force majeure*. This shall be accomplished through an amendment to this Consent Order pursuant to Section XXII. Subsequent Modification of Order. Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are unavoidably affected by the delay. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by a *force majeure*, or if there is no agreement on

the length of the extension, Respondent may invoke the dispute resolution procedures set forth in Section XVII.

XIX. RESERVATION OF RIGHTS

85. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Consent Order, to require that Respondent correct and/or re-perform any work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in the Workplan(s) or in this Consent Order, consistent with the objectives of this Consent Order.

86. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, defenses, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), or any other statutory, regulatory, or common law enforcement authority of the United States.

87. EPA reserves the right to perform any portion of the work required herein or any additional monitoring, sampling, analysis, or reporting it deems necessary to protect public health or welfare or the environment. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the EPA in connection with any such actions, pursuant to any right it may have under applicable law.

88. EPA reserves whatever rights it may have under any environmental law or authority, or in equity, to seek to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order.

89. Except as otherwise provided herein, USAC expressly reserves all of its rights and defenses.

XX. OTHER APPLICABLE LAWS

90. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws, regulations, permits, and ordinances.

91. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA, or any other applicable federal, state, or local laws, regulations, permits, and ordinances.

92. This Consent Order is not and shall not be interpreted to be a permit, or as a ruling or a determination of any issue related to a permit under federal, state or local law. This Consent Order shall not in any way affect Respondent's obligation, if any, to secure such a permit, nor shall this Consent Order be interpreted in any way to affect or waive any of the conditions or requirements that may be imposed by such permit, nor of Respondent's right to appeal any conditions of such permit. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XXI. OTHER CLAIMS

93. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity, against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants found at, taken to, or migrating from the Facility.

94. Neither the United States nor EPA shall be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XXII. SUBSEQUENT MODIFICATION OF ORDER

95. Except as provided in paragraph 97 of this section, the provisions of this Consent Order may be amended only by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order. Any oral agreement between EPA and Respondent, the purpose of which is to modify this Consent Order to address exigent circumstances, and which is subsequently ratified in writing by EPA and Respondent, shall have as its effective date the date of such oral agreement.

96. Any reports, plans, specifications, schedules, other submissions and attachments required by this Consent Order are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, other submissions, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XVI. Delay in Performance/Stipulated Penalties.

97. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Consent Order and necessary for the completion of the project may be made

by written agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the agreement is signed by the EPA Project Coordinator.

98. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

99. If any provision or authority of this Consent Order, or the application of this Consent Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other Parties or circumstances and the remainder of the Consent Order shall not be affected thereby and shall remain in full force.

XXIV. TERMINATION AND SATISFACTION

100. The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated to the satisfaction of EPA that the terms of the Consent Order, including any additional tasks determined by EPA to be required pursuant to this Consent Order, have been satisfactorily completed. Such notice shall not be unreasonably withheld. This notice shall not, however, terminate Respondent's obligations to comply with any continuing obligations hereunder, including, but not limited to, Section XIV. Record Preservation; Section XIX. Reservation of Rights; Section XX. Other Applicable Laws; and Section XXI. Other Claims.

XXV. SURVIVABILITY/PERMIT INTEGRATION

101. If, subsequent to the issuance of this Consent Order, a permit or other order is issued to the Facility, the requirements of this Consent Order will be incorporated by reference into that Order or permit.

102. Any requirements of this Consent Order shall not terminate upon the issuance of a permit or order unless all relevant Consent Order requirements are expressly replaced by the requirements in the permit or all provisions of this Consent Order have been fully complied with to EPA's Satisfaction in accordance with Section XIX, Reservation of Rights, of this Consent Order.

XXVI. ATTORNEYS' FEES AND COSTS

103. Except as otherwise provided herein, Respondent shall bear its own costs and attorneys' fees.

XXVII. EFFECTIVE DATE

104. The effective date of this Consent Order shall be the date on which it is signed by the Director of the Waste Management Division, EPA Region 4.

IT IS SO AGREED AND ORDERED:

DATE: 3/30/05

BY: Winston A. Smith
for Winston A. Smith, Director
Waste Management Division
United States Environmental Protection Agency
Region 4

FOR COMPLAINANT

DATE: 3/28/05

BY: Wayne R. Brobeck
Wayne R. Brobeck, President
Chief Operating Officer
U.S. Agri-Chemicals Corporation
3225 Highway 630, West
Fort Meade, FL 33841

FOR RESPONDENT

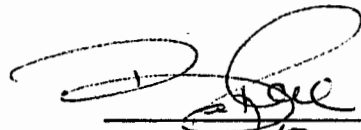
IN THE MATTER OF: U.S. Agri-Chemicals Corporation
DOCKET NO: RCRA-04-2005-4250

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing ADMINISTRATIVE ORDER ON
CONSENT is maintained with the Administrative Record in RCRA files at EPA Region 4, 61
Forsyth Street, S.W., Atlanta, Georgia, 30303, and that a true copy of the ADMINISTRATIVE
ORDER ON CONSENT was sent by Certified Mail, Return Receipt Requested to:

Wayne R. Brobeck, President
Chief Operating Officer
U.S. Agri-Chemicals Corporation
3225 Highway 630, West
Fort Meade, FL 33841

3/30/2005
Date


Legal Clerk / Bethany Russell
Region 4
Office of Environmental Accountability

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF:

U.S. Agri-Chemicals Corporation
2550 State Road 60, West
Bartow, Florida 33841

RESPONDENT

EPA ID No. FLD 041 497 512

) ADMINISTRATIVE
) ORDER ON CONSENT
)
)
) Docket No: RCRA-04-2005-4251
)
)
) Proceeding under Section 3013(a) of the
) Resource Conservation and Recovery Act,
) as amended, 42 U.S.C. § 6934(a)

DOCKET NO. 44157-769

4/6/06 ~~XX~~

RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT

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RCRA SECTION 3013(a) ADMINISTRATIVE ORDER ON CONSENT**I. JURISDICTION**

1. This Administrative Order on Consent (Consent Order) is issued pursuant to the authority vested in the Administrator of the Environmental Protection Agency ("EPA" or "Agency") by Section 3013(a) of the Resource Conservation and Recovery Act, ("RCRA" or "the Act"), as amended, 42 U.S.C. § 6934(a). The authority to enter into this Consent Order has been duly delegated to the Director of the Waste Management Division, EPA Region 4.
2. This Consent Order is issued to U.S. Agri-Chemicals Corporation, ("USAC" or "Respondent"), a subsidiary of USAC, Inc., a corporation doing business in the State of Florida. Respondent consents to and agrees not to contest EPA's authority to issue this Consent Order and to enforce its terms. Further, Respondent will not contest EPA's authority to: compel compliance with this Consent Order in any subsequent enforcement proceedings; require Respondent's full or interim compliance with the terms of this Consent Order; or impose sanctions for violations of this Consent Order; provided, however, that Respondent retains any and all rights it may have to dispute the merits of any such claims.
3. Respondent does not waive its right to contest EPA's assertion of jurisdiction over any other matter concerning the Facility, including, but not limited to, EPA's authority to issue any other order to it under RCRA in the future. EPA and Respondent agree that by entering into this Consent Order, Respondent does not admit any liability arising out of The Findings of Fact, Conclusions of Law, and Determinations related to, the acts or omissions alleged in this Consent Order.
4. This Consent Order is based upon the administrative record compiled by EPA and incorporated herein by reference. The record is available for review by the Respondent and the public at EPA's Regional Office at 61 Forsyth Street, S.W., Atlanta, GA 30303. Contact Bethany Russell for access to the file at (404) 562-8542.
5. The State of Florida's RCRA program was authorized under 3006(b) of RCRA, 42 U.S.C. 6926(b) on February 12, 1985. The requirements of the authorized State program are found in Fla. Stat. § 403.701 et seq. and Florida Administrative Code (FAC) R. 62-730. Although EPA has granted the State authority to enforce its own hazardous waste program, EPA retains its authority under Section 3013(a) of the Act.

II. PARTIES BOUND

6. The provisions of this Consent Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, contractors, successors, and assigns.

7. No change in ownership, corporate, or partnership status relating to the Facility described in this Consent Order will in any way alter the status or responsibility of Respondent under this Consent Order. Any conveyance by Respondent of title, easement, or other interest in the Facility described herein, or a portion of such interest, shall not affect Respondent's obligations under this Consent Order. Respondent shall be responsible and liable for any failure to carry out all activities required of Respondent by this Consent Order, irrespective of its use of employees, agents, contractors, or consultants to perform any such tasks.

8. Respondent shall provide a copy of this Consent Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work performed pursuant to this Consent Order within seven (7) calendar days of the effective date of this Consent Order, or on the date of such retention, and Respondent shall condition all such contracts on compliance with the terms of this Consent Order.

9. Any documents transferring ownership and/or operations of the Facility described herein from Respondent to a successor-in-interest shall include written notice of this Consent Order. In addition, Respondent shall, no less than thirty (30) days prior to transfer of ownership or operation of the Facility, provide written notice of this Consent Order to its successor-in-interest, and written notice of said transfer of ownership and/or operation to EPA.

III. STATEMENT OF PURPOSE

10. In entering into this Consent Order, the mutual objectives of EPA and Respondent are the protection of human health and the environment through Respondent's implementation of sampling, analysis, monitoring and reporting at the facility. In meeting these objectives, Respondent shall prepare and submit for approval to EPA a Workplan to determine the nature and extent of any release of hazardous waste and/or hazardous constituents to the environment at or from the Facility. After EPA approval of the Workplan, Respondent must then implement the agreed upon activities.

IV. FINDINGS OF FACT

11. Respondent's Facility covered by this Consent Order is approximately 53 acres and is located at 2250 State Road 60 West in Bartow, Florida. Operations at the Facility commenced in 1949 under the ownership of Armour Agricultural Chemicals Company. Primary operations at that time included one production line each for the manufacture of sulfuric acid, phosphoric acid, and single super phosphate. Additionally, for a brief time, a rock mine was operated. The mine was subsequently closed. In 1964, Armour added a second phosphoric acid production line. USS (U.S. Steel) Agri-Chemicals Company purchased the Facility in 1968, and in 1975, built the existing diammonium phosphate (DAP) plant. In 1981, all operations at the Facility were suspended with the exception of DAP production. Respondent purchased the Facility in 1989.

12. At present, the only operation at the Facility is the production of DAP by reacting phosphoric acid (received via truck from Respondent's Fort Meade, Florida Facility) with ammonia. DAP is used as a nutritional supplement for animal feed and in fertilizer manufacturing.

13. Information provided by USAC and the National Response Center (NRC) show that on December 27, 2002, approximately 100 to 150 lbs of sulfuric acid was accidentally released from a sulfuric acid line to a small water-containing ditch (part of the wastewater transport ditch) on the Facility property. USAC uses sulfuric acid for production and to neutralize scrubber water from the DAP process. The acid is stored on-site in one 24,000-gal tank, one 5,500-gal tank, and one 490-gal tank. Scrubber water from the DAP process is piped directly into a scrubber water pond where it is cooled and reused.

14. Upon discharge, the sulfuric acid is no longer a usable material, and as such, has been "disposed" of and is a "solid waste," as those terms are defined in 40 C.F.R. §§ 260.10 and 261.2, respectively.

15. The discharged sulfuric acid is characteristically corrosive with a pH less than 2 (EPA hazardous waste code D002) and thus is a hazardous waste as that term is defined in 40 C.F.R. § 261.3.

16. Sulfuric acid is a strong acid, which, if inhaled, may cause digestive and respiratory tract burns or digestive and respiratory tract irritation. It is a suspected musculoskeletal toxicant, a respiratory toxicant, and a skin or sense organ toxicant. Confirmatory sampling of the soil in the area of this spill is warranted to ascertain whether hazardous constituents have been released into soil and/or groundwater or are still present in soil and/or groundwater.

17. As noted in Paragraph 11, prior to 1981, the Facility produced sulfuric acid, phosphoric acid, and single super phosphate. To produce phosphoric acid, the Facility digested phosphate rock with sulfuric acid. The reaction produced phosphoric acid and calcium sulfate, commonly referred to as gypsum. During the reaction, precipitated crystals of gypsum were separated from the acid via filtration and rinsed to recover residual phosphoric acid. After rinsing, the gypsum slurry was pumped into a storage pond located on the top of a gypsum storage stack (gypstack).

18. Decant water from the gypsum storage stack was commingled with some process and non-contact cooling water in unlined cooling water ponds and ditches on-site. The used water was circulated through the ditches and ponds and, once cool, recirculated into the process for reuse.

19. Leachate from gypsum storage stacks and process water from the production of phosphoric acid typically contain metals such as arsenic and cadmium and, without neutralization, is characteristically corrosive with a pH of less than 2.

20. Respondent currently manages one unlined gypsum storage stack which was closed on March 20, 2000, under Florida Department of Environmental Protection (FDEP) closure requirements.

21. The closed-unlined gypsum storage stack and associated ponds are a solid waste management unit (SWMU). A SWMU is defined as any discernible unit at which solid wastes have been placed at any time irrespective of whether the unit was intended for the management of solid or hazardous waste.

22. Due to the fact that this is an unlined unit and that this unit was used for the management of solid waste prior to the effective date of RCRA (November 19, 1980), there is a possibility of a release of hazardous constituents from this SWMU into the environment. Confirmatory sampling is warranted to ascertain whether hazardous constituents have been released from this unit into soil and/or groundwater or are still present in soil and/or groundwater.

23. The unlined scrubber water ponds, which consist of a DAP scrubber water pond and a former sulfur dioxide pond, and the associated seepage drainage ditch, are SWMUs, as that term is described in Paragraph 21. EPA acknowledges that according to USAC, the unlined cooling water ponds currently receive scrubber water which has been neutralized to a pH of approximately 6 with sulfuric acid; however, due to the fact that this is an unlined unit and that there is limited information regarding the historical use of the unit, and that this unit was used for the management of solid waste prior to the effective date of RCRA (November 19, 1980), there is a possibility of a release of hazardous constituents from this SWMU into the environment. Confirmatory sampling is warranted to ascertain whether hazardous constituents have been released from this unit into soil and/or groundwater or are still present in soil and/or groundwater.

24. Low pH aqueous liquids facilitate the mobilization of metals, such as arsenic and cadmium. Metals are readily leached from soils and/or sediment into groundwater upon contact with a solution of pH less than 3.5.

25. As noted by recent groundwater sampling activities at the Facility by facility personnel, depth to the surficial aquifer at the Facility is 6.8 feet. Unless specific exemptions are permitted pursuant to F.A.C. Chapter 62-520, all ground water in the state of Florida must meet drinking water standards. However, pursuant to F.A.C. Chapter 62-520.420 USAC has a groundwater monitoring system approved by the Florida Department of Environmental Protection which allows groundwater on-site (within the "zone of discharge," as described below in Paragraph

37(4)(e)) to meet the "Minimum Criteria for Ground Water" set forth in F.A.C. Chapter 62-520.400. As such, potential contamination of groundwater off-site or outside the "zone of discharge" may result in potential contamination of potable drinking water.

V. DETERMINATIONS AND CONCLUSIONS OF LAW

26. Respondent's Facility is a "facility or site" within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).

27. Respondent is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

28. Respondent is an "owner" and "operator" of the Facility located at 2550 State Road 60W, Bartow, Florida, within the meaning of Section 3013(a) of RCRA, 42 U.S.C. § 6934(a).

29. Section 1004(27) of RCRA, 42 U.S.C. § 6905(27) defines the term "solid waste" to mean "any garbage, refuse . . . and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations . . ."

30. Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), defines the term "hazardous waste" to mean: a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may-

(A) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

31. Section 1004(6) of RCRA, 42 U.S.C. § 6903(6), defines the term "hazardous waste constituent" to mean a constituent that caused the Administrator to list the hazardous waste in part 261, subpart D, or a constituent listed in table 1 of Section 261.24.

32. Section 1004(3) of RCRA, 42 U.S.C. § 6903(3), defines the term "disposal" to mean "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters."

33. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has hereby determined that USAC is a facility at which hazardous wastes, as that term is defined in 42 U.S.C. § 6903(5), and hazardous constituents are present and at which hazardous wastes and hazardous constituents have been treated, stored or disposed.

34. Based on the foregoing Findings of Fact, and pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), EPA has determined that the release of hazardous waste as defined by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), at USAC's Facility, may present a substantial hazard to human health or the environment.

35. EPA has further determined that USAC, as owner or operator of the Facility, is the party responsible for conducting the actions ordered herein, which are necessary to ascertain the nature and extent of the hazard to human health or the environment.

VI. ORDER

36. The term "days" as set forth herein means calendar days unless otherwise specified.

37. Pursuant to Section 3013(a) of RCRA, 42 U.S.C. § 6934(a), Respondent consents to and is hereby ordered to perform the following actions in the manner and by the dates specified herein:

Sampling and Analysis Plan

1. Within thirty (30) days of the effective date of this Consent Order, Respondent shall submit to EPA for approval, an Outline for a Sampling and Analysis Workplan ("Outline") for carrying out the required monitoring, testing, analysis, and reporting.
2. Within sixty (60) days of EPA's approval of the Outline, Respondent shall submit to EPA, a Sampling and Analysis Workplan ("Workplan").
3. The Sampling and Analysis Workplan shall be designed to determine the presence, magnitude, extent, direction, and rate of movement of any hazardous waste and/or hazardous constituents within and beyond the Facility boundary. The Workplan shall document the procedures Respondent shall use to conduct those activities necessary to: (a) characterize the source(s) of contamination; (b) characterize the potential pathways of contaminant migration; (c) define the degree and extent of contamination; and (d) identify actual or potential human

and/or ecological receptors. Respondent may implement the work contained in the Workplan in a phased approach. A specific schedule for expeditious implementation of all activities shall be included in the Workplan.

4. At a minimum, USAC's Workplan for assessment must include the following:
 - (a) Process water samples from the DAP process, i.e. scrubber water intake and discharge.
 - (b) A sediment and/or soil, as appropriate, sampling and analysis section to collect and analyze representative sediment and/or soil samples to determine the nature and extent of potential contamination, both vertically and horizontally, at the following areas: the area of the sulfuric acid spill referenced in Paragraph 13; the unlined scrubber pond(s); cooling and process water ditches and ponds; stormwater and non-process water ponds; and ditches associated with the NPDES outfall. The Workplan shall include the number, location, and depth of the samples, and the parameters for analysis.
 - (c) A leachate and run-off sampling and analysis section to determine the nature and extent of potentially contaminated leachate and run-off flowing from the portions of the facility adjacent to and down-gradient from the closed gypstack and the diammonium phosphate production plant. The Workplan shall include the number, location, depth of samples, and the parameters for analysis.
 - (d) A groundwater sampling and analysis section to characterize the groundwater quality and the extent of any groundwater contamination, both vertically and horizontally, which may exist in and around the closed gypstack, cooling water ditches, process and non-process water storage ponds and ditches, stormwater outfall(s), and the diammonium phosphate plant, and which may be migrating from the Facility. The Workplan shall include the number, location, and depth of groundwater samples (either from existing wells, temporary wells, or direct-push technology), the number and frequency of samples to be taken, and the parameters for analysis.
 - (e) Upon confirmation of the existence of hazardous constituents beyond the Facility "zone of discharge," a section addressing a potable well survey within a ½ mile radius of the Facility including a schedule for sampling of each well, and the parameters for analysis. At the Facility, the "zone of discharge" is bounded by eleven groundwater monitoring wells. At the

northern and southern portions of the Facility, the "zone of discharge" is located at the property boundary. At the eastern and western portions of the Facility, the "zone of discharge" is located inside the property boundary. Upon confirmation of an exceedance of Florida drinking water standards in any of the potable wells, the well survey will be extended by ½ mile radial increments in the appropriate direction depending on the results of the initial well survey.

- (f) Upon confirmation of the existence of hazardous constituents outside the "zone of discharge" in soil (exceeding SSLs) and/or groundwater (exceeding background levels), a section addressing an Environmental Indicator Assessment shall be included.
 - (g) A survey which identifies any wetlands, creeks, or lakes within a one (1) mile radius of the Facility. This survey should also identify any such bodies of water which are used for public recreational purposes or may contain endangered species.
 - (h) (a) a Project Management Plan; (b) a Data Collection Quality Assurance Plan; (c) a Data Management Plan; (d) a Community Relations Plan and (e) shall provide a timeline for work detailed above and a schedule for the submission of progress reports, a Draft Sampling and Analysis Report, and a Final Sampling and Analysis Report.
5. Concurrent with the submission of the Sampling and Analysis Workplan, Respondent shall submit a Health and Safety Plan.
 6. Upon receipt of EPA approval of the Sampling and Analysis Workplan, Respondent shall implement the EPA-approved Workplan in accordance with the terms and schedules contained therein. Upon completion of implementation of the Workplan, Respondent shall submit to EPA for approval a Draft Sampling and Analysis Report, in accordance with the requirements and schedule contained in the EPA-approved Workplan. Upon approval of the Draft Sampling and Analysis Report by EPA, Respondent shall submit a Final Sampling and Analysis Report.
 38. Omitted.
 39. Omitted.
 40. EPA acknowledges that Respondent may have completed some of the tasks required by this Consent Order and/or that Respondent may have available some of the information and data.

required by this Consent Order. This previous work may be used to meet some of the requirements of this Consent Order, upon submission to and formal approval by EPA.

VII. ADDITIONAL WORK

41. Based on work performed under the Workplan described above, EPA may determine that additional monitoring, testing, analysis, and/or reporting is necessary to ascertain the nature and extent of any hazard to human health and the environment which may be presented by the presence or release of hazardous wastes and/or hazardous constituents at or from the Facility. If EPA determines that such additional work is necessary, EPA will notify Respondent in writing and specify the basis for its determination that additional work is necessary. Within fifteen (15) days after the receipt of such determination, Respondent shall have the opportunity to meet or confer with EPA to discuss the additional work. If required by EPA, Respondent shall submit for EPA approval a Workplan for the additional work. EPA will specify the contents of such Workplan. Such Workplan shall be submitted by Respondent within thirty (30) days of receipt of EPA's determination that additional work is necessary, or according to an alternative schedule established by EPA.

VIII. MINIMUM QUALIFICATIONS FOR PERSONNEL

42. All work performed by or for the Respondent pursuant to this Consent Order shall be under the direction and supervision of an individual who has demonstrated expertise in hazardous waste site investigation. Before any work is performed, Respondent shall submit to EPA, in writing, the name, title, and qualifications of the supervisory personnel and of any contractors or subcontractors to be used in carrying out the terms of this Consent Order. Additionally, the Respondent shall ensure that when a license is required, only licensed individuals shall be used to perform any work required by this Consent Order.

IX. SUBMISSIONS/EPA REVIEW

43. EPA will review Respondent's Outline, Workplan, Draft and Final Reports, and any other documents submitted pursuant to this Consent Order ("submissions"), with the exception of progress reports, and will notify Respondent in writing of EPA's approval or disapproval of each such submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the submission. Such disapproval shall not be subject to the dispute resolution procedures of Section XVII. below.

44. Within thirty (30) days of receipt of EPA's comments on the submission, Respondent shall submit to EPA for approval a revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a revised submission. In the event that EPA disapproves the revised submission, Respondent may invoke the dispute resolution procedures of Section XVII. EPA

reserves the right to revise such submission and seek to recover from Respondent the costs thereof, in accordance with any rights that it may have under RCRA, Comprehensive Environmental Response, Compensation and Liability Act CERCLA ("CERCLA") and any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

45. Upon disapproval by EPA of a revised submission, and in the event Respondent does not invoke the dispute resolution procedures of Section XVII. Respondent shall submit to EPA, within fifteen (15) days of EPA's disapproval, a subsequent revised submission which responds to any comments received and/or corrects any deficiencies identified by EPA. Respondent may request additional time within which to submit a subsequent revised submission.

46. In the event EPA and Respondent cannot resolve issues relating to EPA's comments and EPA disapproves of any subsequent revised submission, Respondent shall be deemed in non-compliance of this Consent Order. Respondent may invoke the dispute resolution procedures of Section XVII. EPA reserves the right to revise such submission and to seek to recover from Respondent the costs of revising the subsequent submission in accordance with RCRA, CERCLA and/or any other applicable law. Any submission approved or revised by EPA or upheld through dispute resolution under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.

47. Beginning with the first day of the second full month following the effective date of this Consent Order, and every two months thereafter on the first day of the month, for the first six months that this Consent Order is effective, Respondent shall provide EPA with bimonthly progress reports demonstrating that the activities associated with this Consent Order are being carried out. Thereafter, throughout the period this Consent Order is effective, Respondent shall provide EPA with such reports on a quarterly basis.

48. EPA shall endeavor to timely approve or disapprove any deliverable submitted by Respondent for approval pursuant to this Consent Order. Nothing in this paragraph shall be construed to confer any enforceable rights upon Respondent, nor shall any failure to comply with the provisions of this paragraph be subject to the dispute resolution provisions set forth in Section XVII.

49. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

- a. Four (4) copies (one hard copy, double-sided if possible and 3 electronic copies) of all documents to be submitted to EPA, unless otherwise provided in the Workplan or agreed to by EPA, shall be sent to:

Jeffrey T. Pallas, Chief
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Phone: (404) 562-8569
Fax: (404) 562-8566
Email: pallas.jeff@epa.gov

- b. One (1) copy of all documents submitted to EPA shall also be sent to:

William Kutash
Administrator, Waste Program
Department of Environmental Protection
Southwest District Office
3804 Coconut Palm Drive
Tampa, FL 33619
Phone: (813) 744-6100, x 353
Fax: (813) 744-6125
Email: William.kutash@dep.state.fl.us

- c. One (1) copy of all documents submitted to EPA shall also be sent to:

Tim Bahr, Administrator
Hazardous Waste Regulation
Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400
Phone: (850) 245-8790
Fax: (850) 245-8810
Email: Tim.Bahr@dep.state.fl.us

- d. One (1) copy of all documents submitted to EPA shall also be sent to:

Sam Zamani, PE Administrator
FDEP/Phosphate Management
8407 Laurel Fair Circle
Tampa, FL 33610

Phone: (813) 744-6100
 Fax: (813) 744-6457
 Email: sam.zamani@dep.state.fl.us

e. Documents to be submitted to Respondent shall be sent to:

Ron Brunk, Environmental Manager
 U.S. Agri-Chemicals Corporation
 3225 Highway 630W
 Fort Meade, Florida 33841
 Phone: (863) 285-8121, x 279
 Fax: (863) 285-7088
 Email: usacenv@gte.net

50. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a duly authorized representative of Respondent. A person is a "duly authorized representative" only if: (a) the authorization is made in writing; (b) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (c) the written authorization is submitted to the Project Coordinator designated by EPA pursuant to Section XI. Project Coordinator, of this Consent Order.

51. The certification required by paragraph 50 above, shall be in the following form:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature : _____

Name: _____

Title: _____

X. QUALITY ASSURANCE/QUALITY CONTROL

52. Respondent shall follow EPA guidance for sampling and EPA guidance or National Environmental Laboratory Accreditation Conference (NELAC) standards for sample analysis, as appropriate. Respondent shall develop a Quality Assurance Project Plan (QAPP) for all sampling and analysis conducted under this Consent Order. The Workplan shall contain quality assurance/quality control (QA/QC) and chain of custody procedures for all sampling, monitoring, and analytical activities. Any deviations from the QA/QC and chain of custody procedures in an approved Workplan must be approved by EPA prior to implementation; must be documented, including reasons for the deviations; and must be reported in the applicable report.

53. The contact person(s), name(s), addresses, and telephone numbers of the analytical laboratories Respondent proposes to use must be specified in the applicable Workplan.

54. All Workplan(s) required under this Consent Order shall include data quality objectives for each data collection activity to ensure that data of known and appropriate quality are obtained and that data are sufficient to support their intended use(s).

55. Respondent shall monitor to ensure that high quality data is obtained by its consultant or contract laboratories. Respondent shall ensure that laboratories used by Respondent for analysis perform such analysis according to the latest approved edition of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846, as amended), or other methods deemed satisfactory to EPA. If methods other than EPA methods are to be used, Respondent shall specify and submit all such protocols for EPA approval in a Workplan amendment. EPA may reject any data that does not meet the requirements of the approved Workplan or EPA analytical methods and may require re-sampling and additional analysis.

56. Respondent shall ensure that laboratories it uses for analyses participate in a QA/QC program equivalent to that which is followed by EPA. EPA may conduct a performance and QA/QC audit of the laboratories chosen by Respondent before, during, or after sample analyses. Upon request by EPA, Respondent shall have its laboratory perform analyses of samples provided by EPA to demonstrate laboratory performance. If the audit reveals deficiencies in a laboratory's performance or QA/QC, re-sampling and additional analysis may be required.

XI. PROJECT COORDINATOR

57. EPA hereby designates as its Project Coordinator:

Bethany Russell, Environmental Scientist
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
U.S. Environmental Protection Agency, Region 4

61 Forsyth Street
 Atlanta, Georgia 30303
 Phone: (404) 562-8542
 Fax: (404) 562-8566
 Email: russell.bethany@epa.gov

58. Respondent hereby designates as its Project Coordinator:

Ron Brunk, Environmental Manager
 U.S. Agri-Chemicals Corporation
 3225 Highway 630W
 Fort Meade, Florida 33841
 Phone: (863) 285-8121, Extension 279
 Email: usacenv@gte.net

59. Each Project Coordinator shall, on behalf of the party that designated the Project Coordinator, oversee the implementation of this Consent Order and function as the principal project contact.

60. Respondent shall provide EPA with a written notice of any change in its Project Coordinator. Such notice shall be provided at least seven (7) days prior to the change in Project Coordinator.

XII. SAMPLING AND DATA/DOCUMENT AVAILABILITY

61. Respondent shall submit to EPA the results of all sampling and/or tests or other data generated by, or on behalf of, Respondent pursuant to the requirements of this Consent Order.

62. Respondent shall notify EPA and FDEP, in writing or by electronic mail, at least ten (10) days in advance of engaging in any field activities at the Facility conducted pursuant to this Consent Order. At the request of EPA, Respondent shall provide or allow EPA or its authorized representatives to take split and/or duplicate samples of all samples collected by Respondent pursuant to this Consent Order. Similarly, at the request of Respondent, EPA will allow Respondent or its authorized representatives to take split and/or duplicate samples of any samples collected by EPA under this Consent Order, provided that such sampling shall not delay EPA's proposed sampling activities. Nothing in this Consent Order shall limit or otherwise affect EPA's authority to collect samples pursuant to applicable law, including, but not limited to, RCRA and/or CERCLA.

XIII. ON-SITE AND OFF-SITE ACCESS

63. Respondent shall provide access at all reasonable times to the Facility and to all records and documentation relating to conditions at the Facility and the activities conducted pursuant to this Consent Order to EPA and its employees, contractors, agents, consultants, and representatives. These individuals shall be permitted to move freely at the Facility, following site-specific safety training, in order to conduct activities which EPA determines to be necessary.

64. To the extent that activities required by this Consent Order, or by any approved Workplan(s) prepared pursuant hereto, must be done on property not owned or controlled by Respondent, Respondent will use its best efforts to obtain site access agreements in a timely manner from the present owners of such property. Best efforts, as used in this paragraph, shall include the payment of reasonable compensation in consideration of granting access. Respondent shall ensure that EPA's Project Coordinator has a copy of any access agreements.

65. Nothing in this Consent Order limits or otherwise affects EPA's right of access and entry pursuant to applicable law, including RCRA and CERCLA.

XIV. RECORD PRESERVATION

66. Respondent shall retain, during the pendency of this Consent Order and for a minimum of five (5) years after its termination, a copy of all data, records, and documents now in its possession or control, or in the possession or control of its contractors, subcontractors, representatives, or which come into the possession or control of the Respondent, its contractors, subcontractors, or representatives, which relate in any way to this Consent Order. Respondent shall notify EPA, in writing, at least ninety (90) days in advance of the destruction of any such records, and shall provide EPA with the opportunity to take possession of any such records. Such written notification shall reference the caption, docket number and date of issuance of this Consent Order and shall be addressed to:

Jeffrey T. Pallas, Chief
South Enforcement and Compliance Section
RCRA Enforcement and Compliance Branch
Waste Management Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Additionally, Respondent shall provide data, records and documents retained under this Section at any time before the expiration of the five (5) year period at the written request of EPA.

67. Nothing in this Consent Order limits or otherwise affects Respondent's obligation to preserve records and documentation pursuant to applicable law.

XV. INFORMATION SUBMITTED TO EPA

68. Respondent may assert a business confidentiality claim in the manner described in 40 CFR § 2.203(b) covering all or part of any information submitted to EPA pursuant to this Consent Order. In accordance with 40 CFR § 2.204(e)(4), any assertion of confidentiality shall be adequately substantiated by Respondent when the assertion is made. Information submitted for which Respondent has asserted a claim of confidentiality as specified above shall be disclosed by EPA only to the extent and manner permitted by 40 CFR Part 2, Subpart B. If no such confidentiality claim accompanies the information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to the Respondent. Respondent agrees not to assert any confidentiality claim with respect to any physical, sampling, monitoring, or analytical data. The agreement to not assert any confidentiality claim with respect to this Order, does not include sampling data related to product streams, such as reactor inputs.

69. In the event that Respondent wishes to assert a privilege with regard to any document which EPA seeks to inspect or copy pursuant to this Consent Order, Respondent shall identify the document, the privilege claimed and the basis therefor in writing. For the purposes of this Consent Order, privileged documents are those documents exempt from discovery from the United States in litigation under the Federal Rules of Civil Procedure and/or any applicable case law. EPA may dispute any such claim of privilege.

XVI. DELAY IN PERFORMANCE/STIPULATED PENALTIES

70. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVIII. Force Majeure, in the event that Respondent fails to comply with any requirement set forth in this Consent Order, Respondent shall pay stipulated penalties, as set forth below, upon receipt of written demand by EPA.

71. Compliance by Respondent shall include commencement or completion, as deemed appropriate by EPA, of any activity, plan, study or report required by this Consent Order, and in the manner required by this Consent Order and within the specified time schedules in and approved under this Consent Order. Stipulated penalties shall accrue as follows:

- a. For any failure to commence, perform or complete work as prescribed in this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,500 per day for each day of noncompliance, or part thereof, thereafter;

b. For any failure to submit any draft or final Workplan, plans, or reports as required by this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1,500 per day for each day of noncompliance, or part thereof, thereafter; and

c. For any failure to submit other deliverables as required by this Consent Order: \$500 per day for one to seven days or part thereof of noncompliance, and \$1000 per day for each day of noncompliance, or part thereof, thereafter.

d. All stipulated penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue through the final day of or correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

72. All stipulated penalties owed to EPA under this section shall be due within thirty (30) days of receipt of a demand for payment, unless Respondent invokes the dispute resolution procedures under Section XVII. Such demand for payment shall describe the noncompliance and shall indicate the amount of stipulated penalties due.

73. All stipulated penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

United States Environmental Protection Agency
Region 4
P.O. Box 100142
Atlanta, Georgia 30384

All payments shall reference the Respondent's name and address, and the EPA Docket Number of this Consent Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator at the address in paragraph 57 and to the Regional Hearing Clerk at:

United states Environmental Protection Agency
Region 4
61 Forsyth Street
Atlanta, GA 30303

74. Respondent may dispute EPA's demand for payment of stipulated penalties for any alleged violation of this Consent Order by invoking the dispute resolution procedures below under Section XVII. Stipulated penalties shall continue to accrue, but are not required to be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the

dispute, Respondent shall remit to EPA within twenty-one (21) days of receipt of EPA's written decision as to said dispute, any outstanding penalty payment in the manner described above in Paragraph 73 of this Section.

75. Neither the filing of a petition to resolve a dispute nor the payment of stipulated penalties shall alter in any way Respondent's obligation to comply with the requirements of this Consent Order.

76. The assessment of stipulated penalties set forth in this section shall not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order.

XVII. DISPUTE RESOLUTION

77. If a dispute arises under this Consent Order, the procedures of this section shall apply. The Parties shall make reasonable efforts to informally resolve disputes at the Project Coordinator or immediate supervisor level.

78. If Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by EPA pursuant to this Consent Order, Respondent shall notify EPA in writing of its objections, and the basis therefor, within fourteen (14) calendar days of receipt of EPA's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters which it considers necessary for EPA's determination. EPA and Respondent shall have an additional fourteen (14) days from the receipt by EPA of the notification of objection, during which time representatives of EPA and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) day period, EPA will furnish to Respondent, in writing, its decision on the pending dispute. Said written decision shall state the basis and rationale for the decision.

79. Except as provided in Paragraph 78 above, the existence of a dispute, as defined in this section, and EPA's consideration of matters placed into dispute, shall not excuse, toll or suspend any other compliance obligation or deadline required pursuant to this Consent Order during the pendency of the dispute resolution process.

80. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA pursuant to this Consent Order, shall constitute final agency action giving rise to any right to judicial review.

XVIII. FORCE MAJEURE

81. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events which constitute a *force majeure*. Respondent shall have the burden of proving such a *force majeure*. A *force majeure* is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include: increased costs of performance; changed economic circumstances; failure to obtain federal, State or local permits; reasonably foreseeable weather conditions; or weather conditions which could have been overcome by due diligence.

82. Respondent shall notify EPA, in writing, within ten (10) days after it becomes or should have become aware of any event which Respondent claims constitutes a *force majeure*. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated time table for implementation of these measures. Failure to comply with the notice provision of this paragraph shall constitute a waiver of Respondent's right to assert a *force majeure* claim with respect to such event. If, in EPA's sole and unreviewable discretion, EPA determines that the failure to give notice was not prejudicial to EPA, Respondent's failure to give notice shall not constitute a waiver. In addition to the above notification requirements, Respondent shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after it becomes or should have become aware of any event which may delay such compliance.

83. If EPA determines that the failure to comply or delay has been or will be caused by a *force majeure*, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such *force majeure*. This shall be accomplished through an amendment to this Consent Order pursuant to Section XXII. Subsequent Modification of Order. Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are unavoidably affected by the delay. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by a *force majeure*, or if there is no agreement on the length of the extension, Respondent may invoke the dispute resolution procedures set forth in Section XVII.

XIX. RESERVATION OF RIGHTS

84. EPA expressly reserves all rights and defenses that it may have, including the right both to disapprove of work performed by Respondent pursuant to this Consent Order, to require that Respondent correct and/or re-perform any work disapproved by EPA, and to request that

Respondent perform tasks in addition to those stated in the Workplan(s) or in this Consent Order, consistent with the objectives of this Consent Order.

85. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order. This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, defenses, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA, the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), or any other statutory, regulatory, or common law enforcement authority of the United States.

86. EPA reserves the right to perform any portion of the work required herein or any additional monitoring, sampling, analysis, or reporting it deems necessary to protect public health or welfare or the environment. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the EPA in connection with any such actions, pursuant to any right it may have under applicable law.

87. EPA reserves whatever rights it may have under any environmental law or authority, or in equity, to seek to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order.

88. Except as otherwise provided herein, USAC expressly reserves all of its rights and defenses.

XX. OTHER APPLICABLE LAWS

89. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state, and local laws, regulations, permits, and ordinances.

90. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA, or any other applicable federal, state, or local laws, regulations, permits, and ordinances.

91. This Consent Order is not and shall not be interpreted to be a permit, or as a ruling or a determination of any issue related to a permit under federal, state or local law. This Consent Order shall not in any way affect Respondent's obligation, if any, to secure such a permit, nor shall this Consent Order be interpreted in any way to affect or waive any of the conditions or requirements that may be imposed by such permit, nor of Respondent's right to appeal any conditions of such permit. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XXI. OTHER CLAIMS

92. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, demand, or defense in law or equity, against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants found at, taken to, or migrating from the Facility.

93. Neither the United States nor EPA shall be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XXII. SUBSEQUENT MODIFICATION OF ORDER

94. Except as provided in paragraph 96 of this section, the provisions of this Consent Order may be amended only by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order. Any oral agreement between EPA and Respondent, the purpose of which is to modify this Consent Order to address exigent circumstances, and which is subsequently ratified in writing by EPA and Respondent, shall have as its effective date the date of such oral agreement.

95. Any reports, plans, specifications, schedules, other submissions and attachments required by this Consent Order are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, other submissions, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XVI. Delay in Performance/Stipulated Penalties.

96. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Consent Order and necessary for the completion of the project may be made by written agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the agreement is signed by the EPA Project Coordinator.

97. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXIII. SEVERABILITY

98. If any provision or authority of this Consent Order, or the application of this Consent Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other Parties or circumstances and the remainder of the Consent Order shall not be affected thereby and shall remain in full force.

XXIV. TERMINATION AND SATISFACTION

99. The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent has demonstrated to the satisfaction of EPA that the terms of the Consent Order, including any additional tasks determined by EPA to be required pursuant to this Consent Order, have been satisfactorily completed. Such notice shall not be unreasonably withheld. This notice shall not, however, terminate Respondent's obligations to comply with any continuing obligations hereunder, including, but not limited to, Section XIV, Record Preservation; Section XIX. Reservation of Rights; Section XX. Other Applicable Laws; and Section XXI. Other Claims.

XXV. SURVIVABILITY/PERMIT INTEGRATION

100. If, subsequent to the issuance of this Consent Order, a permit or other order is issued to the Facility, the requirements of this Consent Order will be incorporated by reference into that Order or permit.

101. Any requirements of this Consent Order shall not terminate upon the issuance of a permit or order unless all relevant Consent Order requirements are expressly replaced by the requirements in the permit or all provisions of this Consent Order have been fully complied with to EPA's Satisfaction in accordance with Section XIX. Reservation of Rights, of this Consent Order.

XXVI. ATTORNEYS' FEES AND COSTS

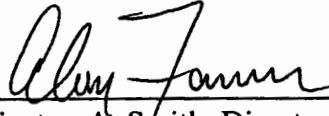
102. Except as otherwise provided herein, Respondent shall bear its own costs and attorneys' fees.

XXVII. EFFECTIVE DATE

103. The effective date of this Consent Order shall be the date on which it is signed by the Director of the Waste Management Division, EPA Region 4.

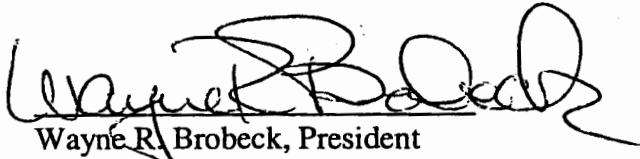
IT IS SO AGREED AND ORDERED:

DATE: 3/30/05

BY: 
 for Winston A. Smith, Director
 Waste Management Division
 United States Environmental Protection Agency
 Region 4

FOR COMPLAINANT

DATE: 3/28/05

BY: 
 Wayne R. Brobeck, President
 Chief Operating Officer
 U.S. Agri-Chemicals Corporation
 3225 Highway 630, West
 Fort Meade, FL 33841

FOR RESPONDENT

IN THE MATTER OF: U.S. Agri-Chemicals Corporation
DOCKET NO: RCRA-04-2005-4251


CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing ADMINISTRATIVE ORDER ON
CONSENT is maintained with the Administrative Record in RCRA files at EPA Region 4, 61
Forsyth Street, S.W., Atlanta, Georgia, 30303, and that a true copy of the foregoing
ADMINISTRATIVE ORDER ON CONSENT was sent by Certified Mail, Return Receipt

Requested to:

Wayne R. Brobeck, President
Chief Operating Officer
U.S. Agri-Chemicals Corporation
3225 Highway 630, West
Fort Meade, FL 33841

3/30/2005
Date


Legal Clerk / Bethany Russell
Region 4
~~Office of Environmental Accountability~~

Ron Brunk
<usacenv@gte.net>
01/18/2005 02:39 PM

To Bethany Russell/R4/USEPA/US@EPA
cc Carl Eldred- HGS <CarlE@hgslaw.com>, Susanne Allen
<sallen@usagrichem.com>, Satish Kastury- WRS
<skastury@wrsie.com>, Ralph DeMeo
<RALPHD@hgslaw.com>

bcc

Subject Re: Questions

Attached is a Word document of the answers to your questions. Please feel free to contact me if you have any questions or need clarifications.

Ron

----- Original Message -----

From: <Russell.Bethany@epamail.epa.gov>
To: <usacenv@gte.net>
Sent: Wednesday, January 12, 2005 4:33 PM
Subject: Questions

> Dear Mr. Brunk,
> Per our discussion earlier today, I am enclosing a list of questions
> which are needed to proceed. Although I will most likely need to
> contact you for additional information, answers to the following
> questions should get us started.
>
> General Questions
>
> 1. Name of parent company/ location of parent company's headquarters
> 2. Chronology of U.S. Agri-Chem name changes
> 3. Name, title, and address of person authorized to sign formal
> correspondence (Order)
>
> Please answer the following separately for each facility
>
> 1. Manager name and formal title at each facility
> 2. Site operational acreage
> 3. Chemical processes (i.e, sulfuric acid production, MAP, DAP, etc.)
> and brief description of each (either flow diagram or text only).
> 4. Release(s) (prior or present) of hazardous waste or hazardous
> constituents to the environment and the media impacted by the release(s)
> 5. Brief description of process waste management units onsite (i.e. gyp
> stack(s), wastewater treatment pond(s), wastewater transport ditches,
> etc.)
>
> Please feel free to contact me at any time.
>
> Sincerely,
> Bethany
>
>
> Bethany Russell, Environmental Scientist
> RCRA Enforcement and Compliance Branch
> U. S. E.P.A. - Region 4
> 61 Forsyth Street. S.W.
> Atlanta, Georgia 30303
> 404-562-8542

10101887



> russell.bethany@epa.gov
>
>



EPAs General Questions.doc

General Questions

1. Name of parent company/ location of parent company's headquarters

Sinochem American Holdings
1330 Post Oak Blvd, Suite 2500
Houston, TX 77056

2. Chronology of U.S. Agri-Chemicals' name changes

1949- Armour Agricultural Chemicals Company- Owned by Armour and Company
1968- USS Agri-Chemicals Company- Owned by United States Steel Corporation (USX)
1989- U.S. Agri-Chemicals Corporation- Owned by Sinochem

3. Name, title, and address of person authorized to sign formal correspondence (Order)

Phong Vo, General Manager, Engineering and Technical Services

Please answer the following separately for each facility

1. Manager name and formal title at each facility

Bartow Plant- Dan Taylor- Superintendent, Steve Susick – VP Operations

FMCP- Jeff Barber- Superintendent, Steve Susick - VP Operations

2. Site operational acreage

Bartow Plant- 53 acres (0.08 sq miles)

FMCP (Ft. Meade Chemicals Plant) - 800 acres (1.25 sq miles)

3. Chemical processes (i.e, sulfuric acid production, MAP, DAP, etc.) and brief description of each (either flow diagram or text only).

Bartow Plant:

DAP(Di-Ammonia Phosphate) - Phosphoric acid (shipped by truck from FMCP) is reacted with ammonia to produce Di-Ammonium Phosphate

Please note that no mineral processing occurs at this facility.

FMCP (Ft. Meade Chemical Plant):

SAD (Sulfuric Acid Department) - Sulfur is burned, catalyzed from SO_2 to SO_3 , then converted to sulfuric acid.

PAD (Phosphoric Acid Department) - Sulfuric acid is reacted with phosphate rock to produce phosphoric acid, hydrofluosilicic acid, and phosphogypsum. Phosphoric acid is concentrated from 28% to 40%, and from 40% to 52%.

MAP (Mono-Ammonium Phosphate) - Phosphoric acid is reacted with ammonia to produce Mono-Ammonium Phosphate

9476612

4. Release(s) (prior or present) of hazardous waste or hazardous constituents to the environment and the media impacted by the release(s).

Reported releases of past 10 years from FMCP (none reported at Bartow Plant)

Date	Amount	Material	Description of release
4/20/95	184 lbs	SO ₃	Release of SO ₃ when final tower pump failed for 1 min 39 secs
1/4/00	500 gal	Diesel fuel	Spilled on ground when refueling tractor
3/29/00	44 gal	Lube oil	Spilled on pavement from cracked ball mill lube oil cooler
5/25/00	80 gal	Hydraulic oil	Spilled on pavement from blown seal on crane
7/25/00	50 gal	Lube oil	Spilled on pavement from ball mill lube oil cooler
12/14/00	300 gal	Coating oil	Spilled on ground from temporary coating oil hose connection
6/11/01	115 lbs	Bleach	Spilled on ground when pump gasket cracked
11/12/01	50 gal	Lube oil	Spilled on ground from ball mill
1/10/02	400 lbs	SO ₃	Released to atmosphere when final tower pump failed
2/4/02	352 lbs	Bleach	Spilled on ground when hose came loose
2/6/02	100 gal	Hydraulic oil	Spilled on ground when rail car puller hydraulic hose split
2/28/02	8,000 lbs	Phosphoric Acid	Spilled on ground when cold transfer pipe cracked from hot acid
3/09/04	90 lbs	Ammonia	Below RQ- original estimate of 1,000 pounds was incorrect
6/11/04	51,000 gal	Pondwater	Spilled by contractor moving pondwater line

5. Brief description of process waste management units onsite (i.e. gyp stack(s), wastewater treatment pond(s), wastewater transport ditches, etc.)

Bartow Plant: an unlined scrubber pond cools the neutral scrubbing medium for re-use. Non-process wastewater and stormwater from the DAP plant exit the west side of the plant and pass through two ponds enroute to the NPDES outfall northeast of the closed gypsum stack.

FMCP (Ft. Meade Chemical Plant): Phosphogypsum is placed on a lined gypsum stack east of the facility. Process water from the plant, decant pondwater from the lined stack, and stormwater from the unlined gypsum stack (under closure) drain to an unlined cooling pond. Non-process wastewater from the sulfuric, MAP and PAD (phosphoric acid plant) exits the east side of the facility and goes south to a freshwater ditch. Non-process wastewater from the PAD (phosphoric acid plant) also exits from the southwest corner of the facility, then goes west to join the other ditch enroute to the NPDES outfall.

NATIONAL RESPONSE CENTER - PUBLIC REPORT

Incident Report # 632834

10101886

INCIDENT DESCRIPTION

Report taken by: CIV WARD at 20:22 on 27-DEC-02

Incident Type: PIPELINE

Incident Cause: UNKNOWN

Affected Area: SMALL DITCH

The incident was discovered on 27-DEC-02 at 19:15 local time.

Affected Medium: WATER SMALL DITCH

SUSPECTED RESPONSIBLE PARTY

Name: RON BRUNK

Organization: US AGRI-CHEMICAL CORP. Address: 3225 STATE RD 630 WEST

FORT MEADE, FL 33841

PRIMARY Phone: (863)2858121

Type of Organization: PRIVATE ENTERPRISE

INCIDENT LOCATION

HWY 60 WEST County: POLK City: BARTOW State: FL Zip: 33841 Distance from City: 2 MILES

Direction from City: W

RELEASED MATERIAL(S)

CHRIS Code: SFA Official Material Name: SULFURIC ACID

Also Known As:

Released: 0 UNKNOWN AMOUNT Qty in Water: 0 UNKNOWN AMOUNT

DESCRIPTION OF INCIDENT

THE CALLER REPORTS A RELEASE OF MATERIAL DUE TO A SULFURIC ACID LINE LEAKING INTO A SMALL DITCH

INCIDENT DETAILS

Pipeline Type: DISTRIBUTION

DOT Regulated: NO

Pipeline Above/Below Ground: BELOW

Exposed or Under Water: NO

Pipeline Covered: UNKNOWN

---WATER INFORMATION---

Body of Water: SMALL DITCH

Tributary of:

Nearest River Mile Marker:

Water Supply Contaminated: NO

DAMAGES

Fire Involved: NO Fire Extinguished: UNKNOWN

INJURIES: Hospitalized:

Empl/Crew:

Passenger:

FATALITIES: Empl/Crew:

Passenger:

Occupant:

EVACUATIONS: Who Evacuated:

Radius/Area:

Images:

Closure Type	Description of Closure	Length of Closure	Direction of Closure
--------------	------------------------	-------------------	----------------------

Air: N
Road: N
Waterway: N
Track: N

Major
Artery: N

REMEDIAL ACTIONS

MATERIAL CONTAINED, MATERIAL SPILLED INTO SECONDARY CONTAINMENT
Release Secured: YES Release Rate: Estimated Release Duration:

WEATHER

ADDITIONAL AGENCIES NOTIFIED

Federal:

State/Local: FL ERC

State/Local On Scene:

State Agency Number: NO REPORT #

NOTIFICATIONS BY NRC

U.S. EPA IV (PRIMARY)

27-DEC-02 20:33 (404)5628700 MR. FRANCO

EPA IV FOR FLORIDA ATTN: T STILMAN (PRIMARY)

27-DEC-02 20:28

NOAA 1ST CLASS BB RPTS FOR FL (PRIMARY)

27-DEC-02 20:28 (206)5266344

DOI FOR REGION 4 ATTN: MR. HOGUE (PRIMARY)

27-DEC-02 20:28 (404)3314524

RSPA OFFICE OF PIPELINE SAFETY (PRIMARY)

27-DEC-02 20:35 NOT SENT

FL EMERGENCY RESPONSE COMMISSION (PRIMARY)

27-DEC-02 20:28 (850)4139911

ADDITIONAL INFORMATION

THE CALLER WILL NOTIFY THE DEP AND LEPC.

*** END INCIDENT REPORT # 632834 ***

Ron Brunk
<usacenv@gte.net>
01/24/2005 03:41 PM

To Bethany Russell/R4/USEPA/US@EPA
cc
bcc
Subject Re: Questions

Attached is a timeline showing the years of ownership, and the processes built/demolished at each facility.

Ron

----- Original Message -----

From: <Russell.Bethany@epamail.epa.gov>
To: "Ron Brunk" <usacenv@gte.net>
Cc: <Pallas.Jeff@epamail.epa.gov>; <Ney.Frank@epamail.epa.gov>
Sent: Thursday, January 20, 2005 11:23 AM
Subject: Re: Questions

> Dear Mr. Brunk,
> Could you please tell me if manufacturing operations at the Bartow Plant
> have ever included mineral processing? Also, as U.S. Agri-Chemicals
> changed ownership, did manufacturing processes remain constant at each
> facility or were there variations from company to company? Thank you
> for your help and timely response to the prior questions. It is greatly
> appreciated.
> Sincerely,
> Bethany
>
>
> Bethany Russell, Environmental Scientist
> RCRA Enforcement and Compliance Branch
> U. S. E.P.A. - Region 4
> 61 Forsyth Street. S.W.
> Atlanta, Georgia 30303
> 404-562-8542
> russell.bethany@epa.gov
>
>

10101889



Year	Ft. Meade	Bartow
1949	Armour Agricultural Chemicals Company	
1949		Sulfuric Acid Phosphoric Acid Triple Super Phosphate
1961	Sulfuric Acid Phosphoric Acid Triple Super Phosphate	
1964		Phosphoric Acid
1968	USS Agri-Chemicals Company (U.S. Steel)	
1975		Existing Di-Ammonium Phosphate (DAP) built
1981		All but DAP cease operation
1982	Sulfuric Acid- replaced Phosphoric Acid- replaced Triple Super Phosphate demolished	
1989	U.S. Agri-Chemicals (Sinochem)	
1995	Mono-Ammonium Phosphate built	

Ron Brunk
<usacenv@gte.net>
01/31/2005 03:12 PM

To: Bethany Russell/R4/USEPA/US@EPA
cc
bcc
Subject: Re: Questions

My apologies, I overlooked that one; that was a release of 100-150 gallons of sulfuric that leaked from a sulfuric acid line. I just went back through my files again and did not see any other Bartow events in the past ten years.

Ron

----- Original Message -----

From: <Russell.Bethany@epamail.epa.gov>
To: "Ron Brunk" <usacenv@gte.net>
Sent: Monday, January 31, 2005 2:47 PM
Subject: Re: Questions

> Good Afternoon Ron,
> I show that the National Response Center has a spill of sulfuric acid
> recorded at the Bartow facility on 12/27/02 at 19:15 (Incident Report #
> 632834).
> Would you please look into this and let me know about the spill? I
> understand that you did not find any record of releases at the Bartow
> facility, so I just want to double check.
> Thank you again,
> Bethany
>
> Bethany Russell, Environmental Scientist
> RCRA Enforcement and Compliance Branch
> U. S. E.P.A. - Region 4
> 61 Forsyth Street. S.W.
> Atlanta, Georgia 30303
> 404-562-8542
> russell.bethany@epa.gov
>
>

420
1200
5/11

10101890



Back

(Revise My Criteria) (New Search)

10101891



Detailed Listing

Name:	US AGRI-CHEMICALS CORP	Google News	Employees:	Corporate Location: 100 to 249
Address:	3225 STATE ROAD 630 W		Est Sales:	\$100 to \$500 MILLION
City:	FORT MEADE, FL 33841-9778		Location:	SINGLE LOC
Contact:	WAYNE BROBECK (PRESIDENT)		Headquarters:	None
County:	POLK		Credit Rating Code*:	EXCELLENT
MSA (Metro Area):	LAKELAND-WINTER HAVEN, FL		ABI Number:	501873442
Phone:	(863) 285-8121		Public:	No
Fax**:	(863) 285-9654		Stock Exchange:	None
Fortune 1000 Ranking:	Not Available		Ticker Symbol:	Not Available
Foreign Parent:	NO		Toll Free Number:	Not Available
			URL:	Not Available

SIC	Lines of Business	Ad Size	Year Appeared in YP
2819-98	INDUSTRIAL INORGANIC CHMCLS NEC (MFRS)		1995
1475-01	PHOSPHATE ROCK		1988
5191-03	PHOSPHATES-WHOLESALE	REGULAR	1989

NAICS	Lines of Business
32518808	ALL OTHER BASIC INORGANIC CHEMICAL MFG
21239201	PHOSPHATE ROCK MINING
42491025	FARM SUPPLIES MERCHANT WHOLS

Name	Title	Gender
WAYNE BROBECK	CHIEF OPERATING OFFICER	MALE
RONNIE BOUTWELL	CHIEF FINANCIAL OFFICER	MALE
RONNIE BOUTWELL	CONTROLLER	MALE

DAN SMITH	DATA PROCESSING EXECUTIVE	MALE
ERNEST E HELMS	HUMAN RESOURCES EXECUTIVE	MALE
ERNEST E HELMS	CORPORATE SECRETARY	MALE
STEVE SUSICK	PLANT MANAGER	MALE
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Show Businesses Within 1/10 mile All Businesses		
Show SIC's Within 1/10 mile SIC Search		

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 IP: 204.46.65.120



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Ron Brunk
<usacenv@gte.net>
02/17/2005 08:32 AM

To Bethany Russell/R4/USEPA/US@EPA
cc
bcc
Subject Groundwater level

The average water depth of 1312 sampling events at both facilities for the surficial aquifer was 6.8'.



10101892



